



December 1, 2023

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

The Honorable Jeff Hild  
Acting Assistant Secretary  
Administration for Children and Families  
330 C Street, S.W.  
Washington, D.C. 20201

**Brian Patrick Kennedy**  
Speaker Pro Tempore  
Rhode Island General  
Assembly  
President, NCSL

**Sabrina N. Lewellen**  
Deputy Director - Senate  
Assistant Secretary of the  
Senate  
Arkansas General Assembly  
Staff Chair, NCSL

**Tim Storey**  
Chief Executive Officer  
NCSL

Re: *Notice of Proposed Rulemaking: **Strengthening Temporary Assistance for Needy Families (TANF) as a Safety Net and Work Program- RIN 0970-AC99***

Dear Secretary Becerra and Acting Assistant Secretary Hild:

The National Conference of State Legislatures is the bipartisan organization serving legislators and legislative staff in the 50 states and territories. Thank you for the opportunity to respond to the Notice of Proposed Rulemaking (NPRM): Strengthening Temporary Assistance for Needy Families (TANF) as a Safety Net and Work Program RIN 0970-AC99.

NCSL's response to this NPRM is in accord with the policy directives recommended by our Health and Human Services Standing Committee and adopted by NCSL members at large. We believe strongly that states are uniquely equipped to address local needs and circumstances and to accomplish this most effectively when state flexibility is built into federal partnerships. Flexibility allows states to tailor TANF programs to the specific needs of their communities and experiment with different strategies and approaches to tackle poverty and reduce child welfare involvement while also promoting the development and implementation of more effective, evidence-based practices.

For all of these reasons, we are concerned about the proposal to define "needy" with regard to purposes 1 and 2 of the TANF statute, as "family income of 200% of the federal poverty level." Such a rigid standard, without room for state discretion, may impede state efforts to preempt a child's removal from the home and/or a family's reliance on government benefits. NCSL supports a more flexible definition that will permit states to respond to changing economic conditions and other challenges facing families who may not be below 200% but who are at risk for becoming so if the state is not able to intervene in ways consistent with the statute.

Additionally, while NCSL appreciates ACF's interest in increasing accountability in TANF expenditures, we are likewise concerned about the proposal to adopt a reasonable person standard to determine whether an expenditure is "reasonably calculated to accomplish a TANF purpose." The subjectivity of such a definition, and its susceptibility to varying interpretations among regional offices across the country, may lead to uncertainty about what is allowed, and thus to concerns about misuse penalties resulting in suppression of state innovation in TANF programs. Furthermore, the need to calculate cost allocations not only creates additional administrative burdens for states, but also has the potential to create additional state administrative expenses.

Though NCSL recognizes the importance of accountability for achieving intended outcomes and effectively using federal funds, we nevertheless believe that these proposed changes undermine the ability of states to respond to local needs and foster innovation. As is noted throughout the proposed rule, the TANF statute sought to increase flexibility, and we

urge ACF to work with its state partners to further refine this NPRM to achieve a better balance of accountability, clarity and flexibility.

Respectfully submitted,

A handwritten signature in blue ink that reads "Tim Storey". The signature is written in a cursive style with a long, sweeping underline.

Tim Storey  
Chief Executive Officer  
National Conference of State Legislatures