

## ELIGIBILITY QUESTIONS

**E1: What are the current eligibility criteria under the primary eligibility provision (which replaces the 70% provision) that must be met in order to serve individuals with WtW funds?**

An individual may be served under this provision if :

- ! S(he) is currently receiving TANF assistance under a State TANF program, or its predecessor program, for at least 30 months, although the months don't have to be consecutive; or
- ! S(he) will become ineligible for assistance within 12 months due to either Federal or State-imposed time limits on the receipt of TANF assistance. This criterion includes individuals (as well as children of noncustodial parents) exempted from the time limits due to hardship under 408(a)(7)(C) of the Act or due to a waiver because of domestic violence under section 402(a)(7) of the Act, who would become ineligible for assistance within 12 months without the exemption or waiver; or
- ! S(he) is no longer receiving TANF assistance because s(he) has reached either the Federal five-year limit or a State-imposed time limit on receipt of TANF assistance (section 403(a)(5)(C) of the Act); or
- ! S(he) is a noncustodial parent of a minor child and is:
  - \$ Unemployed, underemployed, or having difficulty paying child support; and
  - \$ In compliance with the terms of a written or oral personal responsibility contract; and
  - \$ At least ONE of the following applies:
    - \$ the minor child (or custodial parent) meets the long-term recipient of TANF requirements; or
    - \$ the minor child is receiving or eligible for TANF benefits and services; or
    - \$ the minor child received TANF benefits and services during the preceding year; or
    - \$ the minor child is receiving or eligible for assistance under the Food Stamp Program, Supplemental Security Income Program, Medicaid, or Children's Health Insurance Program.

Please refer to 20 CFR 645.212, 645.214 and 645.215, (published at 66 Fed. Reg. 2690 (Jan.11, 2001)) for all primary eligibility criteria information and related topics.

**E2: In the current WtW Regulations, the 30% category is now referred to as the “other eligibles” provision. What is the criteria for eligibility under this provision?**

Any individual may be served under this provision if s(he):

- Is currently receiving TANF assistance (as described in 645.212(d) and either:
  - has characteristics associated with, or predictive of, long-term welfare dependence, such as having dropped out of school, teenage pregnancy, or having a poor work history (States in consultation with the operating entity, may designate additional characteristics associated or predictive, of long-term welfare dependence); or has significant barriers to self-sufficiency, under criteria established by the local board or alternate administering agency;
- was in foster care under the responsibility of the State before 18 years of age and is between the ages of 18-24 at the time of applying for the WtW program. Eligible individuals include those who were recipients of foster care maintenance payments as defined in section 475(4) under part E of the Social Security Act;
- is a custodial parent with income below 100 percent of the poverty line, determined in accordance with the most recent HHS Poverty Guidelines established under section 673(2) of the Omnibus Budget Reconciliation Act of 1981(Pub. L. 97-35), including any revisions required by such section, applicable to a family of the size involved; or
- is a custodial parent with a disability whose own income is below 100 percent of the poverty line but who is a member of a family whose income does not fall below 100 percent of the poverty line.

At 20 CFR 645.213(c)(2), income is defined as total family income for the last six months, exclusive of unemployment compensation, child support payments, and old-age and survivors benefits received under section 202 of the Social Security Act.

Please refer to 20 CFR 645.213 [published at 66 Fed. Reg. 2690 (Jan. 11, 2001)] for more complete information regarding the “other eligibles” provision.

**E3: What constitutes “TANF assistance” for the purposes of determining an individual eligible for WtW? How do we apply this definition under the primary eligibility provision at 20 CFR 645.212(a)(1) and (a)(2), and for the purposes of eligibility under the other eligibles provision at 20 CFR 645.213(a)(1) and (a)(2)? Additionally, what WtW services does the TANF program consider to be “WtW cash assistance,” and how does receipt of these services in a WtW program affect a WtW participant=s TANF time limit?**

***a. What constitutes TANF assistance for the purposes of determining an individual eligible for WtW? How do we apply this definition under the primary eligibility provision at 20 CFR 645.212(a)(1) and (a)(2), and for the purposes of eligibility under the other eligibles provision at 20 CFR 645.213(a)(1) and (a)(2)?***

HHS has issued a definition of the term TANF assistance for use in the TANF program, at 45 CFR 260.31, published in the Federal Register on April 12, 1999 (64 FR 17720). HHS defines the term TANF assistance generally to mean cash payments, vouchers, and other forms of benefits to meet a family's basic needs for food, clothing, shelter, etc. Transportation and child care services for unemployed families are also considered TANF assistance under the HHS definition. Receipt of TANF assistance as defined by HHS for the TANF program is what triggers the applicability of TANF time limits and work requirements. HHS excludes the following benefits and services from their definition of TANF assistance: non-recurrent short-term benefits, wage subsidies to employers, supportive services for employed families, child care for employed families, transportation for employed families, counseling services, case management services, and other job retention and employment-related services that do not provide basic income support.

However, for the purposes of determining an individual eligible for WtW either as a long-term TANF recipient under 20 CFR 645.212(a)(1) and (a)(2), or as a TANF recipient with characteristics associated with or predictive of long-term welfare dependence, or with significant barriers to self-sufficiency as established by the Local Workforce Investment Board, under 20 CFR 645.213(a), we have chosen not to adopt HHS's definition of TANF assistance at 45 CFR 260.31. Rather, for the purposes of determining if a person is receiving TANF assistance as a condition of WtW eligibility under 20 CFR 645.212(a) or 645.213(a), we consider the phrase TANF assistance to mean *any TANF benefits and services for the financially needy according to the appropriate income and resource criteria (if applicable) specified in the State TANF plan* (see the WtW regulations at 20 CFR 645.212(d)). The funding sources for the TANF benefits and/or services an individual receives may be either Federal TANF funds or State Maintenance of Effort (MOE) funds expended in the State TANF program. Funds expended from a State's separate State program (i.e., outside of the requirements of the primary State TANF program) are not considered TANF assistance for the purposes of determining an individual eligible for WtW. However, for all WtW eligibility categories related to TANF receipt, individuals who are receiving TANF diversion payments and/or diversion services are considered recipients of TANF assistance and may be determined eligible for WtW if they meet all other applicable eligibility criteria.

Please note that the WtW program considers "TANF recipient" to mean both the head-of-household on the TANF case as well as any additional persons listed by the TANF agency as recipients on the head-of-household's case.

Thus, our definition of TANF assistance for WtW eligibility is broader in scope than the HHS

definition for the TANF program. The intended result of our broader definition is that more individuals will qualify as eligible for WtW, as the receipt of TANF services (e.g., case management or child care), in addition to receipt of TANF benefits (e.g., recurrent cash payments) now counts toward our definition of TANF assistance receipt, and toward our calculation of an individual's length of TANF receipt. For instance, a current TANF recipient who received twenty months of TANF cash payments, and who subsequently received ten months of TANF child care while no longer receiving TANF cash payments, is now eligible to be served as a long-term TANF recipient under 20 CFR 645.212(a)(1) of our general eligibility provision, because we consider them to have received TANF for a total of thirty months. Similarly, current TANF recipients who are receiving only TANF services (e.g., case management or child care), but no TANF benefits (e.g., recurrent cash payments), may now meet the TANF receipt criterion under 20 CFR 645.213(a).

It should be noted that if an individual receives both TANF benefits and services concurrently, WtW grantees may not count the time receiving benefits and the time receiving services separately. For instance, if an individual received TANF cash payments and TANF case management concurrently for ten months, the individual has received TANF assistance according to our definition for a total of ten, not twenty, months. However, as noted above, if an individual receives TANF services after the termination of his/her receipt of TANF cash benefits, the months s(he) received TANF services alone may be considered in addition to the months s(he) received TANF cash benefits for the purposes of calculating his/her total length of receipt of TANF assistance.

Typically, when TANF offices provide WtW grantees with data on an individual's length of TANF receipt, they provide only the number of months of TANF cash benefits that the individual has received. Therefore, when WtW grantees ask TANF offices for this data, they should request the number of months an individual has received cash benefits, **and** the number of months the individual has received TANF services while not concurrently receiving TANF cash benefits.

Lastly, it should be noted that HHS measures TANF receipt in months, and we have adopted this method for the WtW program. Therefore, an individual need not receive TANF assistance every day of a month to qualify as having received a month of TANF assistance. Rather, if an individual received two weeks of child care in a month, or received one week of TANF cash payments in a month, we consider both scenarios to constitute one month of TANF assistance receipt. Similarly, there is sometimes a lag in time between when an individual first applies for TANF and when they are enrolled in the TANF program. Some States provide individuals with TANF assistance retroactive to the date of their application to TANF, rather than beginning the provision of assistance as of the month of the individual's actual enrollment. In this scenario, for instance, an individual who applied for TANF in January may not have been determined eligible and enrolled in the TANF program until March. States which choose to provide TANF assistance retroactively will provide such individuals with assistance for the months of January, February, and March in the month of their enrollment (March). For the purposes of determining length of TANF assistance receipt for WtW eligibility, this individual has received TANF assistance for three months, not one month, regardless of the fact that the three months'

worth of assistance was provided in one month. WtW grantees should consult with their State TANF contacts to determine if a retroactive payment policy applies in their State.

For additional information on this topic, please review the WtW desk tool entitled “Defining and Calculating TANF Assistance for Determining WtW Eligibility,” available on the WtW web site at <http://wtw.doleta.gov>.

***b. What WtW services does TANF consider to be “WtW cash assistance,” and how does receipt of these services in a WtW program affect a WtW participant’s 60-month time limit on the receipt of federally-funded TANF assistance?***

HHS has issued a definition of the term “WtW cash assistance” for use in the TANF program, at 45 CFR 260.32, published in the Federal Register on April 12, 1999 (64 FR 17720). The WtW-funded benefits and services defined as “WtW cash assistance” under TANF have an impact on the accrual of months by WtW participants against the 60-month time limit on the receipt of federally-funded TANF assistance. Benefits and services not included in the definition of “WtW cash assistance” do not affect participants’ TANF time limits. As defined in the TANF rules at 45 CFR 260.32, WtW cash assistance includes the following WtW-funded benefits which are directed at basic needs: cash payments, vouchers, and other forms of benefits to meet a family’s basic needs for food, clothing, shelter, etc. WtW-funded benefits are considered WtW cash assistance under TANF when they are provided in the form of cash payments, checks, reimbursements, electronic fund transfers, or any other form that can be legally converted to cash.

Benefits and services which are excluded from HHS’ definition of TANF assistance are also excluded from its definition of “WtW cash assistance” (see part (a) of this question, above, for a list of benefits and services excluded from the HHS definition of TANF assistance). For instance, HHS would not consider income earned from a job that meets the Fair Labor Standards Act (FLSA) definition of “employment” as “TANF assistance” or “WtW cash assistance.” In addition, while supportive services (such as transportation and child care) provided to unemployed families are included in HHS’ definition of TANF assistance, they are excluded from the HHS definition of WtW cash assistance. Thus, receipt of such WtW-funded services will not affect a participant’s TANF time limit.

WtW benefits and services which would likely be considered “WtW cash assistance” under the HHS definition include: (1) training support payments paid to individuals engaged in pre- or post-employment training activities (see Q&A AA13 for further discussion of training support payments); and (2) payments to individuals conditioned on their participation in activities such as work experience or community service (which might be called “wages” even though the activities do not meet the FLSA standards for “employment”).

Please note that if a WtW participant is receiving TANF assistance (as it is defined by HHS for the

purposes of the TANF program) from a TANF agency, and is concurrently receiving WtW cash assistance from a WtW grantee, there is not a “double-count” against the participant’s TANF time limit. For example, if a participant receives six months of TANF cash payments from a TANF agency, and concurrently receives six months of training wage payments from a WtW grantee, the TANF program considers the participant to have received six, not twelve, months of assistance as it relates to the participant’s TANF time limit. If, however, the participant receives six months WtW cash assistance in the form of training wage payments from a WtW grantee while not concurrently receiving benefits or services defined as TANF assistance from the TANF agency, the participant’s receipt of the six months of training wages would count against his/her TANF time limit.

Additionally, please note that 45 CFR 264.1(a)(3) of the TANF regulations affirms that a State may use WtW funds to provide WtW cash or non-cash assistance to a family that is ineligible for TANF solely because it has reached the 60-month time limit. This is permitted by section 403(a)(5)(C)(v) of the Social Security Act.

For additional information about definitions of the terms TANF assistance and “WtW cash assistance” as they apply to the TANF and WtW programs, please see the preamble to the WtW regulations (66 FR 2695, 1/11/01, pages 2692 and 2693), as well as the regulations themselves at 20 CFR 645.212(d). In addition, please see the TANF regulations at 45 CFR 260.31 and 260.32 and the applicable preamble language at 64 FR 17754-17763.

**E4: When is a TANF exhaustee eligible for WtW? Does the exhaustee have to go through a process that verifies that s(he) would otherwise be eligible for TANF?**

Under the primary eligibility provision (which replaces the 70% provision), 20 CFR 645.212(b), an individual, who would otherwise be eligible for TANF but is no longer receiving TANF because s(he) has reached either the Federal five-year limit or a State-imposed time limit on receipt of TANF assistance, is eligible for WtW services.

There is no specific time frame in which a TANF exhaustee must be found eligible for the WtW program. However, for determining eligibility under 645.212(b), the WtW grantee must verify that the individual would otherwise be eligible for TANF.

In addition, a TANF exhaustee may be eligible to receive WtW services under the “other eligibles” provision (formerly the 30% provision) if s(he) was in foster care under responsibility of the state before s(he) attained age 18 and is between the ages 18 and 24 when applying for WtW; is a custodial parent with income below 100 percent of the poverty line or is a custodial parent with a disability whose own income falls below 100 percent of the poverty line but who may be a member of a family whose income does not fall below 100 percent of the poverty line. Since the eligibility criteria at 645.213(c)(1) and (c)(3) described here are not incumbent upon TANF receipt, the WtW grantee would not be required

to verify that the individual would otherwise be eligible for TANF.

For more detailed information about the WtW eligibility requirements for TANF exhaustees under the primary eligibility provision, please refer to Question and Answer E1 of this section; and Question and Answer E2 for the eligibility requirements under the “other eligibles” provision. Additionally, please refer to 20 CFR 645.212, 645.213 and 645.214 (66 Fed. Reg. 2690 (Jan. 11, 2001)).

**E5: Does a WtW grantee have to target services (according to the 30 maximum expenditure provision/all other expended funds) when expending matching funds?**

No. Match needs only to be expended for WtW allowable activities for any WtW eligible individuals.

**E6: Does there need to be a TANF custodial parent in order for a noncustodial parent to be eligible under the primary eligibility provision, or is a child-only TANF case sufficient?**

Under the primary eligibility provision (which replaces the 70% provision) at 20 CFR 645.212, the status of the custodial parent as a long-term TANF recipient is not the only way in which the noncustodial parent may be determined eligible for WtW services. However, in accordance with 645.215(a), operating entities must give preference to those noncustodial parents who establish their eligibility on the basis of the custodial parent=s or the minor child=s status as a long-term TANF recipient over other noncustodial parents.

Please refer to Question and Answer E1 of this section for what eligibility criteria must be met in order to serve a noncustodial parent with WtW funds and 20 CFR 645.212, 645.214 and 645.215 (66 Fed. Reg. 2690 (Jan. 11, 2001)). Note that noncustodial parents are no longer served under the “other eligibles” provision at 20 CFR 645.213 (which replaces the 30% category).

**E7: Does the barrier "requires substance abuse treatment for employment" include individuals in recovery who continue to require on-going treatment?**

Yes. Such individuals may be included in accordance with the state or local plan or practice.

**E8: Can a Workforce Investment Board or alternate administering entity serve an individual who resides within the geographical boundaries of another Workforce Investment Board or alternate administering entity of the same State?**

The law and regulations do not specify that individuals served by WtW in a certain State must reside within the geographical boundaries of a specific Workforce Investment Board or alternate administering entity. The manner in which this is accomplished is at the discretion of the local entities involved.

**E9: Can a Workforce Investment Board or alternate administering entity serve an individual who resides in another State?**

According to the Social Security Act, an entity that operates with WtW funds must expend funds for the benefit of recipients of assistance of the State in which the entity is located. States may enter into agreements to facilitate the provision of services to eligible WtW participants of other States, especially noncustodial parents who may not live in the same State as their children.

**E10: How is participant eligibility determined in community saturation projects?**

The eligibility requirements for community saturation projects are the same as those for other WtW projects. An application proposing to employ a community saturation strategy would provide services to 100 percent of the eligible WtW individuals in the project service area.

**E11: Does the primary eligibility provision for hard-to-employ individuals have a minimum expenditure requirement? If yes, does it apply to competitive grants?**

The WtW regulations, at 20 CFR 645.211 describe that both formula and competitive operating entities may not spend more than 30 percent of the WtW funds allotted to or awarded them to assist individuals who meet the “other eligibles” provision at 20 CFR 645.213. The statute no longer specifies a 70 percent minimum expenditure requirement for the primary eligibility provision. DOL interprets the statute to mean that all other funds (other than the 30 percent) expended by either formula or competitive grantees must be spent on individuals enrolled under the primary eligibility category. Thus, operating entities are still required to target WtW funds to those who meet the primary eligibility criteria, but there is not a 70% minimum level.

Please see further details on this topic in the Preamble discussion to 20 CFR 645.211, (66 Fed. Reg. 2690, pages 2690 and 2713 (Jan.11, 2001)) and to Question and Answer AF1 of the Administrative and Fiscal (General) section.

**E12: What does the phrase “certain individuals who appear likely to become long-term recipients are also eligible” mean with regard to eligibility?**

In some summaries of the WtW program, the phrase "certain individuals who appear likely to become long-term recipients are also eligible" has been used to refer to the individuals eligible for the program under the 30% provision of the regulations. This provision of the regulations outlined the eligibility criteria for "individuals with characteristics associated with long-term welfare dependence.@ The WTW regulations at 20 CFR 645.213 now describes the current requirements for serving those individuals as the “other eligibles” criteria.

**E13: If a person qualifies for WtW, is enrolled, then leaves the program, and wants to return**

**to the program, is an eligibility redetermination required?**

Yes. If a participant terminates from WtW, the eligibility of the individual would need to be redetermined for him/her to enroll again under WtW.

**E14: Individuals may be sanctioned by the TANF agency for a variety of reasons including failure to participate in a work activity. Can individuals who have been sanctioned by the TANF agency at the time they apply for WtW be deemed eligible for WtW?**

Yes, under some circumstances. Prior to the new definition of TANF assistance at 645.212(d), family members who were no longer receiving cash assistance due to a sanction were not eligible to participate in the WtW program. Now, under the expanded WtW definition of TANF assistance that applies to WtW eligibility, if any member of the family receives some type of TANF benefit, the family member may be served under the “other eligibles” category at 20 CFR 645.213(a). Additionally, the family member may be eligible to be served under the primary eligibility category at 20 CFR 645.212(a)(1) if (s)he meet the 30-month requirement at 645.212(a)(1), even if the family no longer receives ongoing TANF cash assistance due to a sanction. This includes child-only cases.

Conversely, if the sanction results in the termination of all TANF benefits and services for the family, then the individual would not be eligible, under the criteria at 20 CFR 645.212(a)(1) or 20 CFR 645.213(a), to enroll in the WtW program. However, the family may still be eligible for WtW services if it meets the requirements at 645.213(c)(1) (a custodial parent with income below the poverty level), since the eligibility criteria at 645.213(c)(1) is not dependent upon TANF receipt.

For more detailed information about the expanded WtW definition of TANF assistance, please consult Question and Answer E3 of this section and the Federal Regulations Preamble language, 2690, p. 2692. For information on the eligibility requirements under the primary eligibility provision, please refer to Question and Answer E1 of this section; and Question and Answer E2 for the eligibility requirements under the “other eligibles” provision. Additionally, please refer to 20 CFR 645.212 and 645.213 (66 Fed. Reg. 2690 (Jan. 11, 2001)).

**E15: Do the months that a minor child receives TANF benefits and services while on her mother's case count toward the 30 months of TANF receipt for the purposes of eligibility determination under section 645.212(a)(3) the regulations?**

Yes, under the following circumstance: a young mother is on her mother's case and then she establishes her own case when she becomes 18 years of age. The number of months when she received nonconcurrent TANF benefits and services as a minor child, from the date of birth of her own child, may be included in the calculation of the 30 month criteria. For purposes of WtW eligibility, recipients of

assistance are interpreted to be the person who is the caretaker, or head of the case. This exception noted above is made as a young mother would normally have begun to establish her own eligibility at the birth of the child.

**E16: Is self-attestation acceptable as an eligibility and verification requirement to establish the existence of significant barriers to self-sufficiency and/or characteristics associated with or predictive of long-term welfare dependence?**

The mechanism through which a State and/or local area determines whether a potential WtW participant has barriers to self-sufficiency and/or characteristics of long-term welfare dependence is prescribed neither in the WtW statute or regulation nor is it determined by the Department of Labor. The design of such a mechanism is at the discretion of the individual States and/or local areas. Certainly, whenever documents are made available that can verify eligibility determinations made in accordance with 645.213 (a)(1) and (2), states and/or local operators are encouraged to incorporate such documents as part of the case file. At the same time, we acknowledge that requiring excessive documentation and verification, particularly from the potential participant and her/his family, can become unduly burdensome and could present a significant deterrent to enrolling participants and providing services to families.

Self-attestation has been used with success by some WtW operating entities for identifying and documenting the following conditions: teen pregnancy, paternity of a minor child, family size, unemployment status, underemployment status, and disability status.

Please see Question and Answer E17 below which speaks to the use of self-attestation when establishing receipt and length of time on TANF and Question and Answer E20 that describes scenarios involving the determination of eligibility for NCPs in which the use of self-attestation has been beneficial for some local operating entities.

**E17: In cases where there is delay or difficulty in verifying the receipt/length of TANF assistance, can an operating entity enroll an individual based on self-attestation?**

The regulations at 20 CFR 645.214(b)(1) state that an operating entity "must include arrangements with the TANF agency to ensure that a WtW eligibility determination is based on information, current at the time of the WtW eligibility determination, about whether an individual is receiving TANF assistance, the length of receipt of TANF assistance, and when an individual may become ineligible for assistance, pursuant to 20 CFR 645.212 and 645.213 of this part (section 403(a)(5)(I)(A)(ii)(dd)).@ An individual's receipt of TANF assistance is at the core of determining their eligibility for WtW services at 645.212(a)(1) and (2) and 213(a). For many operating entities, most individuals are still determined eligible for WtW according to these two criteria. Because of that, in cases where there is difficulty or delay in receiving verification of TANF status from the TANF agency for a particular individual, a State or operating entity is not encouraged to use self-attestation without a written policy that includes

the type of documentation that will be used to verify receipt of TANF until actual verification is received from the TANF agency, along with documentation of the steps taken to request such information. It is the responsibility of States and operating entities to ensure that funds are spent on eligible persons, and to document such determinations. States and operating entities should be aware that in situations where the verification received after enrollment does not support the eligibility determination, the expectation is that the participant would be de-enrolled from the WtW program. Additionally, the costs spent on the participant in this circumstance could be disallowed.

**E18: If a WtW participant is taking part in an employment activity, and then loses his/her placement in the employment activity (due to lack of skills, substance abuse problems, lack of child care, transportation issues, etc.), can this person continue to receive WtW-funded post-employment, job retention, and supportive services?**

Yes. This participant has been determined eligible for WtW and has been enrolled in an employment activity under WtW; the loss of employment status does not alter the participant's eligibility for other WtW services. However, in this scenario, the WtW grantee should give special attention to determining and addressing the underlying reasons for the participant's inability to retain his/her employment activity. If appropriate, the grantee should work to place the participant in another employment activity. If it is determined that a subsequent employment placement is not an appropriate immediate goal, then the grantee should focus on addressing the participant's needs through job readiness activities, pre-employment vocational educational or job training, and/or job retention and support services. The grantee may also wish to provide the participant with these types of services in combination with participation in a subsequent, part-time employment activity.

**E19: Is the noncustodial parent's eligibility based on the number of months that the custodial parent has received TANF benefits and services or the number of months the child has received TANF benefits and services?**

Under the primary eligibility provision at 645.212 (which replaces the 70% provision), the time on-TANF requirement could be applied to either the custodial parent or the minor child. For more detailed information about the primary eligibility provision and what other requirements must be met by noncustodial parents, please refer to Question and Answer E1 of this section. Additionally, please refer to 20 CFR 645.212 (66 Fed. Reg. 2690 (Jan. 11, 2001)).

**E20: What kinds of documentation are needed to ascertain eligibility for noncustodial parents?**

Section 645.214(c) of the WtW regulations holds the operating entity accountable for ensuring that WtW funds are spent only on individuals eligible for WtW services and to ensure that they have mechanisms in place to determine WTW eligibility for individuals who are receiving TANF. Moreover,

when serving non-custodial parents (NCPs), operating entities are required, under 645.215(a), to give service preference to those noncustodial parents of minor children who are, or whose custodial parents are, long-term TANF recipients. Since the eligibility of noncustodial parents is often contingent on the determination of TANF receipt or eligibility of the custodial parent or minor child, programs operators serving noncustodial parents must ensure that they have adequate mechanisms in place for making NCP eligibility determinations and have developed the kinds of documentation and verification methods that are sufficient to support these determinations.

Although the Department hasn't developed standards for gathering and maintaining adequate documentation to support determinations of WtW eligibility, it is aware of various effective documentation and verification practices used by States and local entities nationwide and the Department's WtW staff have observed some of these practices while conducting grantee monitoring visits in the field. A number of these practices that have been developed for documenting the eligibility determinations of noncustodial parents are shared below, incorporated in the following guidance to States and operating entities.

The first requirement in determining an NCP eligible for WtW services, as provided in 645.212 (c)(1)(i), (ii) or (iii), is that s(he) be unemployed, underemployed or having difficulty making child support payments. For purposes of adequately documenting an individual's unemployment status, an applicant could self-attest that s(he) does not have a job and is able and available for work. Depending on the State's definition of "underemployed," an applicant could self-attest to that condition or the operating entity could craft appropriate questions on an application for purposes of determining that condition. Finally, the local office of Child Support Enforcement may be able to assist in providing documentation that an applicant is having difficulty paying child support obligations.

Secondly, for adequately documenting that the noncustodial parent (NCP) applicant meets at least one of the criteria in 645.212(c)(2) (i), (ii), (iii) or (iv), the operating entity could obtain confirmation from the TANF agency, in accordance with an established agreement between the agencies, about the TANF status of the child and/or the custodial parent and the number of months of nonconcurrent TANF benefits and services received; or the types of TANF benefits and services that the minor child is receiving or is eligible for; or those TANF benefits and services received by the minor child in the preceding year. Many WtW operating entities have developed a one-page form that captures all the pertinent information needed from TANF that is completed by both offices and becomes the documentation of eligibility for an NCP's case file. If an agreement for sharing information has been established, the same method of documentation could be used with the Food Stamp, the Social Security Income (SSI), Medicaid or the Children's Health Insurance Program (CHIP) offices. Also, the custodial parent may be able to provide current information about her/his family's receipt of TANF, Food Stamp, SSI, Medicaid or CHIP benefits and services, for purposes of establishing the eligibility of a non-custodial parent. However, in accordance with 645.215(b), operating entities are strongly advised that in order to protect the safety of the custodial parent and minor children, custodial parents are not to be required to cooperate in this regard nor is their cooperation to be a condition for the

NCP's participation in the program. If this method is pursued, an interview between the case manager and custodial parent is usually held, a similar form is completed (as discussed above) and becomes the NCP's file record for establishing eligibility. Additionally, and also in accordance with 645.215(b), entities that operate noncustodial parent projects are required to consult with domestic violence prevention and intervention organizations. The dates and contents of such consultations should be documented by the operating entity and maintained for their records. Finally, if none of the above scenarios are an option, the operating entity may employ a method of presumptive eligibility of the NCP. A full explanation of the method used by the operating entity (e.g., an objective standard such as an income test from a program used as proxy) must be well documented in the case file. The WtW program has identified the child health assistance under title XXI of the Social Security Act, SCHIP, as a suitable proxy, as it has the simplest eligibility requirement, requiring only an income determination, and has the highest minimum income level for eligibility purposes of the four programs.

The third factor in the eligibility determination process for NCPs is their participation in a personal responsibility contract no later than 90 days after being enrolled in the WtW program. In accordance with 645.212(c)(3), this contract is not required to be in writing. For purposes of documenting the establishment of an oral personal responsibility contract in the NCP's case file, States and operating entities are strongly encouraged to record the date the NCP enrolled in the WtW program (this date starts the 90-day clock); the date the contract was developed; all parties of the contract and the terms of the contract, including the four required elements: (1) the NCP's commitment to establish paternity of the minor child, (2) the NCP's commitment to cooperate in the payment of child support, (3) the NCP's commitment to participate in the WtW program in order to meet child support obligations, and (4) a description by the operating entity of the services to be provided by the WtW program.

A written personal responsibility contract document for the NCP's file should contain the date the NCP enrolled in the WtW program; the date the contract was signed; the signatures of the NCP, the WtW operating entity and a representative of the Child Support Enforcement Office or IV-D agency; and the terms (including the four required elements listed above) of the contract.

Please note that similar personal responsibility agreements that are in place at the time of the NCP's application to the WtW program can be used as documentation in the file in lieu of a new written or oral personal responsibility contract, as long as the agreement is adapted (if necessary) to contain the four required elements listed above.

Any decisions, events and activities of note associated in carrying out the terms of the personal responsibility contract, such as the voluntary acknowledgment of paternity (if applicable), establishment of the NCP's ability to pay child support, a record of child support arrearages, the IV-D agency's modification of the child support order, etc. should be fully documented in the NCP's file.

Of course, once the NCP is enrolled in the program, all services and outcomes, including supporting documentation and verification, should be fully recorded and are a vital part of the individual case file.

This would include but not be limited to: all pre-employment services such as in-depth assessment and counseling notes, skills test results, referrals to partner agencies to address barriers, and pre-employment training services, all employment activities and job placement actions, and all post-employment as well as job retention and support service interventions. For tracking and reporting purposes, operating entities should maintain all source documents that support the quarterly programmatic and financial data reported to the Department, including placement, six month retention and earnings gain documentation.

For more detailed information about the primary eligibility provision for determining WtW eligibility of a noncustodial parent, please refer to Question and Answer E1 of this section. Additionally, please refer to 20 CFR 645.212, 645.214 and 645.215 (66 Fed. Reg. 2690 (Jan. 11, 2001)), and related Preamble discussions, including documentation requirements, pp. 2704 – 2707. In particular, please see preamble discussion of the use of SCHIP as a program proxy, p. 2705.

**E21: Does a "60 month clock" under TANF start for noncustodial parents who receive WtW services with monetary value (such as subsidized employment)?**

No. The TANF time-limit clock pertains to TANF recipients only, and therefore does not specifically apply to noncustodial parents.

**E22: An individual is determined eligible for, and enrolled in, the “other eligibles” (formerly the 30% eligibility provision) of the WtW program. At a later time, the individual is determined to be eligible to be served under the primary eligibility category. Can that individual be transferred from the “other eligibles” category of the program and enrolled in the primary eligibility category?**

Yes. An individual enrolled currently in the “other eligibles” category may later become eligible for the primary eligibility category due to the individual's change in classification. Below we have provided four scenarios which illustrate the ways an individual's classification can change and what can be done or not done regarding primary eligibility/“other eligibles” classification. Each is followed by a section which describes how to report the changes that such a scenario may cause.

Please note that in all four scenarios, it is never necessary to terminate the individual from the program and re-determine eligibility. This is because the individual has already been determined eligible for the WtW program. Nevertheless, if the operating entity chooses to transfer an individual from the “other eligibles” category to the primary eligibility category, the following guidance is applicable. In all scenarios, operating entities must document and explain the transfer of participants in the “Remarks” section of their Quarterly Financial Status Report (QFSR), and participants' files should be documented to explain the reason for the transfer. Also, financial records should be adjusted accordingly so there is a clear audit trail to substantiate the action.

## SCENARIO #1

TANF RECIPIENT/EXHAUSTEE WAS ORIGINALLY ENROLLED IN FORMER 30% CATEGORY. AFTER ENACTMENT OF 1999 AMENDMENTS, QUALIFIES FOR THE PRIMARY ELIGIBILITY CATEGORY.

The first scenario addresses situations where a TANF recipient or TANF exhaustee who was originally enrolled in the “other eligibles” category prior to the effective date of the Welfare-to-Work and Child Support Amendments of 1999 (the 1999 Amendments) would be eligible under the new criteria for the primary eligibility category due to the eligibility changes enacted by the 1999 Amendments. For example, prior to the effective date of the 1999 Amendments, a TANF recipient or TANF exhaustee may have been enrolled under the “other eligibles” category, due to the fact that while (s)he possessed the requisite 30 months of TANF receipt, (s)he did not have the required two of three barriers to employment. The 1999 Amendments eliminated the requirement that TANF recipients and TANF exhaustees enrolled under the primary eligibility category must meet the criteria for barriers to employment; now, under the 1999 Amendments, individuals served as long-term TANF recipients in the primary eligibility category must only meet the TANF receipt criteria outlined at ' 645.212(a) or (b). Due to this individual's length of time on TANF, (s)he is now eligible to be served under the primary eligibility category and may be transferred from the “other eligibles” category.

### HOW TO REPORT

Where a WtW operating entity has transferred an individual to the primary eligibility category because (s)he meets the new eligibility requirements enacted by the 1999 Amendments, the entity should report him or her on the QFSR as a participant under the primary eligibility category for the quarter in which (s)he became eligible for the primary eligibility category (i.e., the first quarter in which the eligibility changes under the 1999 Amendments are in effect for the operating entity). The entity must remove him or her from the participant count under the “other eligibles” category in the same quarter, in order to avoid having a "double-count" for that participant. Reported expenditures made on behalf of the individual prior to his/her transfer into the primary eligibility category, for the period for time when (s)he was reported as an individual in the “other eligibles” category, must remain in the “other eligibles” expenditure category. After his or her transfer to the primary eligibility category, the operating entity should report all expenditures attributable to the participant from the date of the transfer forward in the primary eligibility expenditure category.

Operating entities should transfer eligible participants in the first quarter after the eligibility changes under the 1999 Amendments are in effect for them. For competitive grantees, the 1999 Amendments were effective January 1, 2000, so the transfer of eligible individuals should have happened and should have been reported in the quarter ending March 31, 2000. For formula grantees, 1999 Amendments took effect July 1, 2000, so the transfer of individuals should have taken place and should have been

reported in the quarter ending September 30, 2000. If operating entities did not transfer eligible individuals in the first quarter after the 1999 Amendments took effect for them, they may transfer these individuals in a later quarter, retroactive to the first quarter after the 1999 Amendments took effect for them. Nonetheless, operating entities should transfer eligible participants as quickly as possible after the eligibility changes under the 1999 Amendments took effect for them.

Please note that in this scenario, the operating entity need not re-determine an individual's eligibility after the effective date of the 1999 Amendments in order to transfer the individual from the “other eligibles” category to the primary eligibility category. That is, operating entities in this scenario will rely upon the information collected at the time of the individual's initial enrollment into WtW to make the determination that the individual is now classified under the primary eligibility category due to the eligibility changes under the 1999 Amendments.

## **SCENARIO #2**

### **NONCUSTODIAL PARENT ORIGINALLY ENROLLED UNDER FORMER 30% CATEGORY. AFTER ENACTMENT OF 1999 AMENDMENTS QUALIFIES FOR THE PRIMARY ELIGIBILITY CATEGORY.**

The second scenario includes situations where a noncustodial parent who was originally enrolled in the “other eligibles” category prior to the effective date of the 1999 Amendments would be eligible under the new criteria for the primary eligibility category due to the eligibility changes enacted by the 1999 Amendments. The 1999 Amendments eliminated the noncustodial parent category from the “other eligibles” category for enrollments which take place after the effective dates of the 1999 Amendments (January 1, 2000, for competitive grantees, and July 1, 2000, for formula grantees). As a result, operating entities now have the option to transfer noncustodial parents who were enrolled under the “other eligibles” category prior to the effective dates of the 1999 Amendments into the primary eligibility category after the effective date of the 1999 Amendments, if those noncustodial parents meet the new noncustodial parent criteria and requirements at ' 645.212(c).

## **HOW TO REPORT**

Operating entities should report a noncustodial parent who was originally enrolled in the “other eligibles” category prior to the effective date of the 1999 Amendments and who is thereafter eligible under the new criteria for the primary eligibility category as a participant under the primary eligibility category for the quarter in which the noncustodial parent meets all of the eligibility requirements outlined at ' 645.212(c).

When the noncustodial parent is transferred into the participant count under the primary eligibility category, (s)he must be removed from the participant count under the “other eligibles” category in the same quarter, in order to avoid having a “double-count” for that participant. Reported expenditures

made on behalf of the noncustodial parent prior to his/her transfer into the primary eligibility category, for the period for time when (s)he was reported as an individual in the “other eligibles” category, must remain in the “other eligibles” expenditure category. All expenditures attributable to this noncustodial parent since his/her transfer to the primary eligibility category should be reported under the primary eligibility expenditure category beginning in the quarter in which (s)he becomes eligible for transfer into the primary eligibility category.

Please note that in this scenario, aside from meeting the requirements of the personal responsibility contract, the operating entity need not re-determine a noncustodial parent's eligibility after the effective date of the 1999 Amendments in order to transfer the individual from the “other eligibles” category to the primary eligibility category. That is, under this scenario, operating entities will rely upon the information collected at the time of the noncustodial parent's initial enrollment into WtW, rather than eligibility information available at the time of the individual's transfer from the “other eligibles” category to the primary eligibility category.

Please also note that the transfer of eligible noncustodial parents from the “other eligibles” category to the primary eligibility category is optional. Operating entities may continue to serve noncustodial parents, who were originally enrolled under the “other eligibles” category prior to the effective date of the 1999 Amendments, in the “other eligibles” category, without transferring them to the primary eligibility category after the effective date of the 1999 Amendments.

### **SCENARIO #3**

**INDIVIDUAL ORIGINALLY ENROLLED IN THE “OTHER ELIGIBLES” PORTION HAS CHANGE IN PERSONAL CIRCUMSTANCES. NOW QUALIFIES TO BE COUNTED IN THE PRIMARY ELIGIBILITY CATEGORY.**

The third scenario includes situations where an individual enrolled in the “other eligibles” category becomes eligible for the primary eligibility category after a change in circumstances. For example, at the time of enrollment into WtW under the “other eligibles” category, the individual might have received TANF for only 25 months. Yet, if this individual continues on TANF for another 5 months and is still enrolled in WtW, (s)he may be reclassified and enrolled under the primary eligibility category, having met the requirement under ' 645.212(a)(1) at that time. Likewise, an individual enrolled under the “other eligibles” category may, after time, come within 12 months of becoming ineligible for assistance as specified in ' 645.212(a)(2). This individual may also be transferred into the primary eligibility category at that time. Such transfers are optional and not required.

### **HOW TO REPORT**

Where the transfer to the primary eligibility category is because of a change in the participant's circumstances, the operating entity should report the participant on the QFSR as a participant under the

primary eligibility category in the quarter that the operating entity determines that the individual meets the primary eligibility criteria. Under this circumstance, in order to avoid having a "double-count" for that participant, the individual must be removed from the "other eligibles" category participant count that same quarter. Reported expenditures made on behalf of the individual prior to his/her transfer into the primary eligibility category, for the period for time when (s)he was reported as an individual in the "other eligibles" category, must remain in the "other eligibles" expenditure category. Expenditures attributable to this participant after the operating entity determined it was appropriate to transfer him or her to the primary eligibility category should be reported under the primary eligibility expenditure category.

#### **SCENARIO #4**

##### **INDIVIDUAL ORIGINALLY MISCLASSIFIED**

The fourth type of scenario is where some individuals may have been misclassified at initial enrollment because one or more of the eligibility criteria were not known at the time of initial processing. For example, individuals enrolled in the "other eligibles" category may not have been enrolled under the primary eligibility category because of a miscalculation of their total time receiving TANF. In this instance, an individual actually may have met the criteria for long-term TANF receipt under ' 645.212(a)(1) or (2) at the time of enrollment, but the WtW operating entity may have classified the individual as a participant in the "other eligibles" category because of the miscalculation. If the operating entity later determines that the individual did in fact meet the criteria for long-term TANF receipt at the time of initial eligibility determination, the operating entity may retroactively consider that individual as a participant under the primary eligibility category of the program as of the date of the individual's initial enrollment.

##### **HOW TO REPORT**

Individuals enrolled in the "other eligibles" category who are later identified as having been eligible for enrollment into the primary eligibility category from the time of their initial enrollment in WtW, may be transferred to the primary eligibility category. In this case, the operating entity should retroactively adjust the QFSR(s) to move the participant and the associated participant costs from the "other eligibles" to the primary eligibility category as of the date of initial enrollment in WtW.

#### **E23: If a WtW participant ceases to receive TANF assistance, can they continue to receive WtW services?**

Yes. Once an individual has begun to receive services, the operating entity is not required to redetermine WtW eligibility and may continue to provide services in accordance with assessment results and the individual responsibility plan.