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Testimony[1] of Elizabeth Lower-Basch

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Before the House and Senate Democratic Caucuses of the State of Mississippi

Legislative Hearing on TANF (Temporary Assistance for Needy Families)

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Good morning and thank you very much for the opportunity to testify here today about the Temporary Assistance for Needy Families (TANF) program. My name is Elizabeth Lower-Basch, and I am the Deputy Executive Director for Policy of the Center for Law and Social Policy (CLASP), a national, nonpartisan, anti-poverty nonprofit. I have worked at CLASP for over 16 years with a focus on the income and work support programs that help people with low incomes meet their and their families' basic needs, including TANF. Before that, I worked at the U.S. Department of Health and Human Services, in the Office of the Assistant Secretary for Planning and Evaluation. I started at HHS in August 1996, the month that TANF was enacted, and was involved with the development of the regulations that I'm going to discuss later in my testimony.

I'm going to start with a brief history of the TANF program, and then talk about the importance of cash assistance. Then I will discuss the allowable uses of funding under TANF and the potential significant financial penalties that Mississippi could face for misuse of the funds. And finally, I will turn to the corrective compliance process, the need for far more rigorous oversight and transparency with respect to both the use of funds and the effectiveness of the programs that are being supported, and the opportunity to use this moment to rethink the TANF program in Mississippi.

History of TANF

Over 25 years ago, the 1996 federal "welfare reform" law replaced Aid to Families with Dependent Children (AFDC) and related programs with the Temporary Assistance for Needy Families (TANF) block grant. AFDC was an uncapped federal matching program, under which states received more federal money when they spent more on cash assistance, and less when their caseloads declined. By contrast, under TANF, states are given a fixed block grant that does not change regardless of caseloads, population growth, or economic circumstance. It also has not been adjusted for inflation since it was created in 1996, which means that it has lost over 40 percent of its real value. The block grant is based on what states spent in the last years of AFDC, which means that states which had less generous AFDC programs, have been locked into permanently lower grants. This predominantly affects Mississippi and other states in the South with large Black populations. Our calculation is that Mississippi received just $535 for every child living in poverty in 1997-1998, just over a quarter of what states like New York or Washington received.[2]

Nationally, the number of families receiving assistance had started to decline even before creation of the TANF program in 1996, and this decline accelerated following that change. The number of families receiving assistance fell from 4.4 million in an average month of 1996 to 2.2 million in 2001 and then declined more slowly through the 2001 recession and the "jobless recovery" that followed to 1.75 million in 2008. While cash assistance caseloads rose in most states during the recent Great Recession, TANF was not nearly as responsive to the steep rise in unemployment as other anti-poverty programs, notably the Supplemental Nutrition

Assistance Program (SNAP, or food stamps). Following the Great Recession, TANF caseloads began declining again, setting a record low each month, with a little under 1 million families receiving cash assistance in September 2018.[3] To be clear, this was not because we solved poverty, but because states made it much harder to access cash assistance, with policies including restrictive benefit levels, time limits, work reporting requirements, and overall hassle factors.

Our colleagues at the Center on Budget and Policy Priorities look at TANF caseloads by measuring the TANF/poverty ratio, asking how many families receive TANF cash assistance, compared to how many families with children are living with incomes below the poverty line. In 1979, for every 100 families with children living in poverty, 71 families received AFDC in Mississippi. By 1995/96, on the eve of TANF's enactment, that had fallen to 39 families for every 100 in poverty. And in 2019-2020, it was just 4 families for every 100 in poverty, tied for last in the country.[4] And it's likely even lower now.

While all states have seen declines in the number of families receiving assistance since 1996, Mississippi is unusual in the extent of the decline during the pandemic. While there are some anomalies in the data, the overall picture is that caseloads fell steadily and significantly through 2020 and haven't recovered. By contrast, nationally, during the COVID-19 pandemic, TANF caseloads increased for the first few months and then decreased to slightly below pre-pandemic levels by October 2020.

During the first three months of 2022, Mississippi served an average of just 1617 families each month. But 1339 of these were so called "child only" cases – just 278 cases with an adult received cash assistance. For context, the recently released American Community Survey Data for 2021 tells us that there are 188,567 children in Mississippi living in poverty, a poverty rate of over 27 percent. Poverty in Mississippi affects children in both rural and urban areas. It affects children of all races and ethnicities but is more common among Black and Hispanic children. TANF cash assistance is not even reaching all grandparents raising grandchildren and living in poverty – ACS data says there were over 8100 of those in Mississippi.

Now, I'd like to turn to why this near disappearance of cash assistance matters. Over the 26 years since PRWORA, repeated expansions of the Earned Income Tax Credit, and increased access to both nutrition supports under SNAP and health insurance under Medicaid have significantly reduced overall child poverty rates, especially for the working poor. But the lowest income families have frequently been left behind. Poverty is bad for children, particularly when children are young and at the earliest stages of development and is worse the deeper and longer lasting it is. Poverty affects children through direct material hardships such as food insecurity and hunger, inadequate clothing or diapers, lack of health care, living in overcrowded or substandard housing, or being homeless. But poverty also harms young children by imposing high levels of stress on their parents, which impairs their capacity to give children the care and attention they need to thrive.[5]

Reduced access to TANF cash assistance is associated with increased rates of child maltreatment, and placements into foster care.[6] This is true across a variety of measures of TANF access, including full-family sanctions, short time limits, and low benefit levels. A recent study used the fact that children born in December can be claimed for tax credits and children born in January cannot to directly examine the child welfare impacts of cash transfers and found that $1,000 given to parents of infants reduced child protection referrals and investigations by 3 percent and the number of days in foster care by 8 percent.[7] This means that not only is poverty terrible for children and families, but it's also bad for state budgets as it's less expensive to support parents so that they can care for their own children than to put them in foster care.

Conversely, helping a family meet their basic needs also has lasting positive effects on the children as they grow up and become workers and parents themselves. Research has documented lasting health, education, employment, and earnings gains among affected children when they age into college and careers. Some impacts appear to be driven by lasting effects of adequate nutrition during crucial developmental moments.

But others are related to increases high-quality parent-child interactions and investments that are undermined by the unforgiving demands of low-paid jobs and the stress and struggles of financial insecurity, ill-health, unemployment, disability, and other "hazards and vicissitudes of life."[8]

One point to note is that while there is a lot of concern about work disincentives, the overwhelming evidence is that our system of transfers, supports, and health coverage programs as a whole support work and wellbeing, both for able-to-work adults, including parents, and their children as they enter adulthood. The metaphor of each of us needing a basic stable foundation before we can build helps illuminate why research findings have been so consistent. A vast array of rigorous empirical studies has demonstrated that individual programs and our social protection system overall help families with low incomes stabilize their lives, maintain employment, advance in the labor market, and help their children thrive.[9]

Additional evidence is provided by the recent experience with the enhanced monthly Child Tax Credit payments that were available last year. Parents reported in a national survey that the monthly advance payments reduced financial stress, helped them to afford necessities, and—for about one-quarter of respondents receiving monthly payments—work more hours outside of the home:

- Nearly 70 percent of respondents who reported getting the monthly payments said the payments made them a lot or a little less stressed about money.
- Respondents reported that the additional money from the CTC allowed them to pay for toys or enrichment activities for their children, and to buy more or higher-quality food. Some respondents reported that the additional money from the CTC has improved their relationships with their spouse, friends, or family.
- Respondents were asked whether the CTC monthly payments have made it easier for them to engage in paid work or to work more hours. About one quarter of all respondents who received monthly payments agreed.[10]

Uses of TANF Funds

So, if TANF funding isn't going to cash assistance, where is it going? As mentioned before, under TANF, states are given a fixed block grant that they can spend on a wide variety of activities as long as they are "reasonably calculated" to further any of the four statutory purposes as written in section 401(a) of the Social Security Act. States are also required to contribute state funds through "maintenance-of-effort" (MOE) spending, which is a percentage of what they historically spent on AFDC, and related programs. The four purposes of TANF (Section 404(a) of the Social Security Act) are to:

1. Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
2. End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
3. Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
4. Encourage the formation and maintenance of two-parent families.

In 1997, nationally, 71 percent of all TANF and state MOE funds were spent on cash assistance. By 2020, this figure had fallen to 22.3 percent.

Mississippi receives a block grant of $86.48 million per year and has an MOE requirement of $21.72 million representing 75 percent of the state's historical spending on AFDC and related programs. But the state is not required to spend all of the federal funds it receives each year; in other words, funds can be carried over from year to year. In the most recent year for which we have data – FY 2020 – MS reported to the federal government that it spent exactly the required $21.72 million in MOE, and $55.1 million of its block grant, leaving about $31 million of FY 2020 funds unspent, on top of the over $15 million in carryover funds that it began the year with. So, the percentages discussed below are of the $76 million in actual spending that the state reported.

Given how few people received cash assistance in 2020, it's not surprising that in Mississippi, in FY 2020, just 5.3 percent of TANF and MOE funds were spent on cash assistance – just over $4 million.

Where did the money go? $22.7 million, or 29.6 percent was reported as work, education, and training services. This sounds good, but most of this – over $18 million – was state spending on scholarships for post-secondary education, available to people with incomes up to 350 percent of the federal poverty level -- $76,020 for a family of 3 in 2020. This money could better be used on programs that are targeted to people with lower incomes and who have more barriers to completing their education, such as the Mississippi Integrated Basic Education and Skills Training Program which targets residents without a high school credential, individuals with low incomes, and other nontraditional students and was recently found to have positive impacts on both education and earnings.[11] The remaining $4 million under this category was probably not used primarily for families receiving cash assistance – remember, that's just a few hundred adults – but to supplement funding for the one-stop career centers under the Workforce Innovation and Opportunity Act (WIOA).

Nearly $22 million – 28.3 percent – went to child welfare services, and $15.3 million – 20 percent were reported as being spent on "fatherhood and two-parent family formation and maintenance programs." This is a very vague category, and it's not clear what specific programs are being supported, or whether they have any impact on the supposed goals. $9.4 million – 12.3 percent – went to program management – administrative costs and systems expenses. Just $1.7 million went to child care – 2.2 percent. And at the end of FY 2020, $47 million was sitting unspent in Mississippi's account.

Penalty Process

I'm now going to pivot and talk about the federal rules regarding use of funds, and the penalties that Mississippi is now potentially facing. States have a lot of flexibility in the use of TANF funds, but it is not unlimited. By statute (section 409) if an audit finds that the funds received under TANF have been used in violation of the law, HHS must reduce the grant the following year by the amount of the misuse. Further, if HHS finds that the state intentionally misused the funds, there is an additional penalty of 5 percent of the annual block grant for each year in which there was a misuse of funds. According to HHS, the "misuse of funds will be considered intentional if there is supporting documentation, such as Federal guidance or policy instructions, indicating that Federal TANF funds could not be used for that purpose." (42 CFR 262.1) When these penalties are imposed, states must replace the funds out of state dollars.

What does that mean in terms of numbers:

Base penalty. HHS has not yet sent Mississippi a formal penalty letter -- it is possible that HHS could determine that some of the expenses identified as misspent by the State Auditor were actually permissible. Assume for this purpose that that all $83.26 million in TANF spending questioned by the State Auditor will be determined by HHS to be misspending. (The additional $11 million in questioned spending in the auditor's report was from SNAP administrative funding and funding from the federal Social Services and Child Care & Development block grants.) If so, the initial penalty is that $83.26 million.

Intentionality. If HHS determines that the misspending was intentional, an additional penalty equal to 5 percent of the block grant will be added for each year the state misspent federal funds. The Auditor's report suggests that funds were misused in 3 years, resulting in a penalty of $11.67 million

Maximum penalty per quarter. However, the maximum penalty for a given quarter is 25 percent of the quarterly grant. This does not reduce the penalty the state must pay but stretches the repayment out over more time. For Mississippi, 25 percent of the quarterly grant equals $5.41 million per quarter, or $21.62 million each year, for 4.4 years.

Replacement with state funds. Federal regulations require that the state make up for the reduction in federal funding due to the penalties with state funding. Note that unlike the block grant funds, these funds must be "expended" not just assigned to TANF. And it has to be state funds – the unspent carryover funds don't count. If the state fails to replace the penalty with state funds, the amount to be repaid carries over, and an additional penalty of 2 percent of the grant ($1.56 million) is added for every year that the state fails to fully replace the federal funding.

Fortunately for Mississippi, the federal statute also lays out a process for states to avoid penalties by fixing the problem through corrective compliance. (42 CFR 262.6) HHS will not impose a penalty against a State with respect to any violation covered by a corrective compliance plan that it accepts if the State completely corrects or discontinues, as appropriate, the violation within the period covered by the plan. If the state makes "significant progress" but does not completely correct the violation, HHS can reduce the penalty.

Briefly, within 60 days of receiving the penalty letter, the state may submit a written response that provides a corrective compliance plan. (States can also claim reasonable cause for failing to meet the requirement, but the only reason that Mississippi might try that here is to buy time, as the failure was not caused by a natural disaster or incorrect federal guidance, and it's clearly not "isolated problems of minimal impact that are not indicative of a systemic problem." 42 CFR 262.5(a)(3)).)

The corrective compliance plan must include an analysis of why the state misused the funds, a detailed description of how they will correct the problem that led to the misuse, and milestones to assure the state has corrected (or is correcting) the problem, including interim process and outcome goals and certification by the Governor that the state is committed to correcting the problem. HHS has 60 days to accept or reject the State's corrective compliance plan.

More Oversight Needed

The first part of the corrective compliance plan needs to be a better process of oversight over the TANF program. Unfortunately, because of the statutory restrictions in section 417 of the Social Security Act,[12] the federal government has extremely limited ability to monitor and evaluate the programs that states run under TANF. For example, the federal government does not approve or disapprove TANF state plans, only certifies them as complete if they include all the required elements. The primary basis on which the federal government may find that a state has misused TANF funds is the single state audit findings.

Evidence of the limitations of the single state audit process are found in the 2018 report, which included findings such as that 4 out of 72 cases examined didn't have a signed personal responsibility contract, and 3 included a child who was missing documentation of immunization. The auditors questioned $1,207 of basic assistance costs and noted that several of the required data reports were submitted late to the federal government. In response, the report noted that "the Division of Economic Assistance has re-emphasized to its staff the importance of adherence to policies and procedures… This was completed by providing additional trainings of the material contained in said policy manuals well as training employees on the various places where the policy manual can be found." The DEA also committed to conducting a 10% supervisory review of approvals and cases to ensure that "documentary files are accurate and complete" and promised that "any funds that are deemed to be an overpayment will be recovered."[13]

Of course, we all now know that during the time covered by the audit, the leadership of the agency and their associates were stealing millions of dollars from the TANF program. But this was not caught by the audit process until a tip was received. The process is simply designed to look for fraud in the wrong places – to make sure that a single mother doesn't receive an extra $20 a month because she didn't report the money, she made babysitting the neighbor's child, not to make sure that the funds aren't being used to pay absurd rates for motivational speeches   never given.

Going forward, it's important that the legislature proactively monitor the TANF program not just to make sure that the funds are being used for legal purposes within TANF, but to ensure that they are being used to help families with children who are experiencing poverty.

Opportunity to Rethink TANF

Because Mississippi has unspent TANF funds, you are in the unusual situation of having the opportunity to expand benefits without having to make cuts elsewhere. I would start by urging Mississippi to expand cash assistance. I recognize that the legislature increased the maximum benefit for a family of 3 to by $90 to $260 in 2021. This was badly needed and long overdue. But the benefit is still only 14 percent of the federal poverty level for a family of 3, and the fourth lowest in the country.[14] Moreover, even if the benefit was increased further, as long as the state serves so few families, this won't meaningfully improve people's lives, or make a dent in the child poverty rate. Mississippi rejects about 90 percent of applications for TANF assistance – and that figure doesn't take into account the people who have stopped bothering to apply. Mississippi should get rid of the upfront job search requirement and full-family sanctions for non-compliance and look for ways to streamline the application process. The state should also stop requiring adults receiving assistance to participate in the limited set of activities that are countable toward the federal work participation rate – Mississippi has a target rate of zero, due to caseload decline – and instead ask them what they need to do in order to achieve their goals for themselves and their families, whether that is going back to school to finish a degree they started, or getting mental health treatment to address the effects of trauma they may have experienced.

Mississippi should also consider providing more expansive short-term non-recurrent benefits to a broader population of families experiencing poverty. The Department of Human Services provided $1000 in one-time payments to families receiving TANF cash assistance in December 2021, reaching about 1500 families and then another 136 families in May 2022, according to news reports.[15] These were funds from the TANF Pandemic Emergency Assistance Fund (PEAF) – additional federal funds provided under the American Rescue Plan to respond to the pandemic that could only be used for short-term nonrecurrent benefits. But Mississippi's share of the PEAF was $4.75 million, and these reported payments only account for less than $1.7 million. The deadline to spend these funds was September 30 – any unspent funds will be reallocated to other states to use. I sincerely hope that Mississippi has used all of these funds; it would be both heartbreaking and infuriating to have turned this money over to other states, given the extent of need in Mississippi.

It's important to understand that TANF has to be used for families with low incomes, but it is not restricted to families receiving ongoing cash assistance. Mississippi could provide one-time payments to the parents of every baby whose birth is covered by Medicaid to help pay for diapers, car seats and all the other costs that babies bring. Mississippi could provide payments to people with children who are receiving SNAP benefits to cover additional costs resulting from the water crisis. Or money could be given to nonprofits to support parents experiencing specific needs – the mother fleeing a violent relationship who needs the deposit to rent an apartment and new clothing for herself and her children, the worker whose car has broken down and who will lose their job if they can't get it fixed.

Mississippi could also consider operating a subsidized employment program. This has been shown to be an effective employment strategy for workers who are marginalized by the labor market, for example, because they have a previous history of incarceration, or who are new to the labor force and may find it difficult to get their foot in the door. This has precedent -- during the Great Recession, Mississippi used TANF funds to support a subsidized employment program, Mississippi STEPS-- Subsidized Transitional Employment Program and Services. This was a joint project of the Departments of Human Services and Employment Security. It provided a 100 percent subsidy of wages for the first two months, phasing down to 25% in month 6, the final month of subsidy, in order to ensure that participating employers weren't just taking advantage of free labor, but were interested in keeping people as employees going forward. A total of 3,236 participants were placed in subsidized positions, and 1,304 employers participated in 78 of the 82 counties in Mississippi. An additional 3,393 young adults were placed in the separate "summer STEPS" program for 18-24 year olds.[16]

Finally, once the state has spent all of the funds available for child care subsidies from other sources, it might consider transferring a portion of TANF funds to the child care block grant, which is allowable.

In closing, I note that as a national advocate, I would love to argue to Congress that the block grant needs to be adjusted for inflation, and that children in Mississippi deserve the same funding as children in other states. Because they do. But I can't in good faith ask for more TANF money for Mississippi until the state is actually using the funds it already receives to support families with low incomes.

Thank you.

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[1] The oral testimony given at the hearing on October 18, 2022 was a condensed version of this prepared testimony.

[2] Elizabeth Lower-Basch and Ashley Burnside, *TANF 101: Block Grants*, Center for Law and Social Policy, July 2022, https://www.clasp.org/publications/report/brief/tanf-101-block-grant/

[3] Elizabeth Lower-Basch and Ashley Burnside, *TANF 101: Cash Assistance*, Center for Law and Social Policy, July 2022, https://www.clasp.org/publications/report/brief/tanf-101-cash-assistance/

[4] *TANF Cash Assistance Should Reach Many More Families in Mississippi to Lessen Hardship*, Center on Budget and Policy Priorities, April 5, 2022 https://www.cbpp.org/sites/default/files/atoms/files/tanf_trends_ms.pdf

[5] Caroline Ratcliffe and Signe-Mary McKernan, *Child Poverty and Its Lasting Consequence*, The Urban Institute, September 2012, http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412659-Child-Poverty-and-Its-Lasting Consequence.PDF; Lawrence Aber, Pamela Morris, and Cybele Raver, "Children, Families, and Poverty: Definitions, Trends, Emerging Science and Implications for Policy," *Society for Research in Child Development* (26), http://www.nasbo.org/sites/default/files/SPR_26%233_FINAL%20%281%29.pdf.

[6] Ginther, D. K., & Johnson-Motoyama, M., *Do state TANF policies affect child abuse and neglect?,* University of Kansas, 2017, https://www.econ.iastate.edu/files/events/files/gintherjohnsonmotoyama_appam.pdf; Puls, Henry T., Matthew Hall, James D. Anderst, Tami Gurley, James Perrin, and Paul J. Chung. "State spending on public benefit programs and child maltreatment." *Pediatrics* 148, no. 5 (2021); Paxson, C., & Waldfogel, J., Welfare reforms, family resources, and child maltreatment. *Journal of Policy Analysis & Management 22,* no. 1 (2003): 85-113.

[7] Katherine Rittenhouse, *Income and Child Maltreatment: Evidence from a Discontinuity in Tax Benefits,* 2022, https://krittenh.github.io/katherine-rittenhouse.com/RittenhouseJMP_current.pdf.

[8] Ajay Chaudry and Christopher Wimer, "Poverty is Not Just an Indicator: The Relationship Between Income, Poverty, and Child Well-Being," *Journal of Academic Pediatrics* (2016), https://www.sciencedirect.com/science/article/abs/pii/S187628591600067X.

[9] Duncan, Greg J., and Katherine Magnuson. "The Long Reach of Early Childhood Poverty." *Economic Stress, Human Capital, and Families in Asia: Research and Policy Challenges* 4 (2013): 57.; Center for Law and Social Policy, "Comments in Response to Proposed Rulemaking: Inadmissibility on Public Charge Grounds," 2018, https://www.clasp.org/wp-

content/uploads/2022/01/CLASP-Public-Charge-Comment.pdf; and Lisa A. Gennetian and Katherine Magnuson*, Three Reasons Why Providing Cash to Families With Children Is a Sound Policy Investment,* Center on Budget and Policy Priorities, 2022, https://www.cbpp.org/research/family-income-support/three-reasons-why-providing-cash-to-families-with-children-is-a#:~:text=While%20child%20poverty%20imposes%20high,%2C%20child%20maltreatment%2C%20and%20homelessness.

[10] *Key Findings from National Child Tax Credit Survey CTC Monthly Payments Are Helping Improve Family Well-Being*, Center for Law and Social Policy, November 2021, https://www.clasp.org/wpcontent/uploads/2022/01/2021_Key-Findings-National-CTC-Survey-Round-2_0.pdf. The survey of 1,012 eligible families with children ages 0-17 living at home was conducted by Ipsos, an international polling firm, with technical guidance from researchers at the University of California, Berkeley. The survey responses were collected in the second and third weeks of October, after most eligible families had received up to three rounds of monthly CTC advance payments.

[11] Amanda Briggs, Daniel Kuehnm Nathan Sick, et. al., *Findings from the Mississippi Integrated Basic Education and Skills Training Program,* The Urban Institute, 2022, https://www.urban.org/research/publication/findings-mississippi-integrated-basic-education-and-skills-training-program

[12] Social Security Act. SEC. 417. [42 U.S.C. 617]. "No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part."

[13] Shad White, *2018 Single Audit Report*, State of Mississippi, 2018, https://www.osa.ms.gov/documents/single-audit/18sar.pdf

[14]Ali Zane, *Mississippi Raises TANF Benefits But More Improvements Needed, Especially in South,* Center on Budget and Policy Priorities, May 4, 2021, https://www.cbpp.org/blog/mississippi-raises-tanf-benefits-but-more-improvements-needed-especially-in-south.

[15] WLOX Staff, "Households receiving TANF receive additional $1,000 pandemic emergency payments", *WDAM*, March 29, 2022, https://www.wdam.com/2022/03/29/households-receiving-tanf-receive-additional-1000-pandemic-emergency-payments/

[16] ACF Peer TA, "Mississippi STEPS: Subsidized Transitional Employment Program & Services" presentation, undated, https://peerta.acf.hhs.gov/sites/default/files/public/uploaded_files/STEPSPresentationforACFmtg.pdf