



ADMINISTRATION FOR
CHILDREN & FAMILIES

370 L'Enfant Promenade, S.W., Washington, DC 20447 www.acf.hhs.gov

Ms. Mary C. Mayhew
Commissioner
Maine Department of Health & Human Services
221 State Street
State House Station # 11
Augusta, ME 04333

APR 15 2014

Dear Ms. Mayhew:

I regret to inform you that Maine met neither its overall nor two-parent TANF participation rate for fiscal year (FY) 2011. After applying your state's caseload reduction credits of 2.5 percent (using FY 2007 as the comparison year) and 2.5 percent (using FY 2007 as the comparison year) to the required participation rates of 50 percent overall and 90 percent for two-parent families, the FY 2011 adjusted target rates for your state became 47.5 percent and 87.5 percent, respectively. Maine achieved an overall rate of 19.1 percent and a two-parent participation rate of 18.7 percent. These shortfalls mean that the state is subject to a penalty.

Caseload Reduction Credit

We calculate caseload reduction credits for the overall and two-parent rates using the percentage point decline in a state's average monthly assistance caseload between the base year, FY 2005, and the comparison year (the fiscal year that immediately precedes the year to which the credit applies), minus any caseload reduction resulting from changes in state or federal eligibility requirements. If the net impact of eligibility changes is positive (i.e., caused the caseload to increase), it has no bearing on the caseload reduction credit.

In determining the comparison-year caseload, a state may request credit in accordance with 45 CFR 261.43(b). Under that provision, a state that is investing state maintenance-of-effort (MOE) funds in excess of the required 80 percent or 75 percent basic MOE amount may reduce its comparison-year caseload by the number of cases funded with this excess MOE, as calculated by a formula in the regulation at 45 CFR 261.43(b)(2).

In addition, the American Recovery and Reinvestment Act of 2009 (Recovery Act) temporarily modified the caseload reduction credit calculation for fiscal years 2009, 2010, and 2011. Under the Recovery Act, for these years a state may either use the prior fiscal year as its comparison

year or may use the caseload reduction credit it qualified to receive when the comparison year was FY 2007 or FY 2008.¹

The tables below show the data we used to calculate the caseload reduction credit for Maine. Please note that the calculations use combined average monthly caseloads of TANF and any separate state programs (SSP-MOE) cases. Expenditures equal verified amounts expended during the fiscal year and may not be the same as those reported for financial data reporting purposes, due to corrections and adjustments in financial reporting. In addition, for purposes of the caseload reduction credit, FY 2007 MOE expenditures must have been reported on the financial reporting form no later than May 31, 2008, the due date for the expenditures from the second quarter of FY 2008. Finally, the caseload reduction credit cannot exceed the statutory work participation rate so we cap the caseload reduction credits at 50 percent and 90 percent for the overall and two-parent work participation rates, respectively.

FY 2007 Expenditure Data for Excess MOE Calculation

Total MOE expenditures	Total assistance (Federal + MOE)	Average assistance expenditures/case	Required MOE amount	Excess MOE	Cases funded with excess MOE
\$49,082,749	\$81,879,633	\$6,508	\$40,025,539	\$9,057,210	1,392

FY 2011 Caseload Reduction Credit Calculation – Overall Credit

Base-year caseload (FY 05)	Comparison-year caseload (FY 07)	Adjusted comparison-year caseload (less excess MOE cases)	Net impact of eligibility changes	Caseload Reduction Credit
11,482	12,581	11,190	0	2.5%

Maine did not calculate a separate two-parent caseload reduction credit and instead applied its overall credit to the two-parent work participation rate.

Penalty Reduction

We arrived at the base penalty amount by applying the regulations at 45 CFR 261.50 to the data you submitted. Because Maine was subject to a penalty for failure to meet the participation rate in the immediately preceding fiscal year, the base penalty is last year’s penalty amount plus two percent of the FY 2011 adjusted state family assistance grant. We then reduced the penalty based on the degree of the state’s noncompliance, in accordance with the regulations at 45 CFR 261.51.

Under the regulations, there are two possible reductions for which a state may qualify. First, if the state failed only the two-parent rate, we reduce the base penalty to a percentage equal to the proportion of two-parent families in its caseload. To receive further reduction, the state must meet two threshold tests specified in the regulations. The threshold tests require the state to achieve a participation rate that is at least half of its adjusted target rate and to increase the

¹ Please refer to Program Instruction TANF-ACF-PI-2009-02 for greater detail about the temporary modification provided for in the Recovery Act and TANF-ACF-PI-2011-02 for more detail about the differences in methodologies for calculating excess MOE between these two years.

number of individuals it engaged in work over the prior year. If the state meets both of those tests, it qualifies for the second reduction, which is based on the severity of the state’s failure.

We consider three factors in determining the severity of the state’s failure: the degree to which the state missed the adjusted target; how many more individuals it has engaged in work over the prior year; and how many rates and how many successive years the state has failed. For the first factor, we reduce the penalty proportionally for the state’s level of achievement above the 50-percent threshold. For the second factor, we calculate an adjustment factor that rewards the state for engaging at least 15 percent more individuals in work than it engaged the prior year. We multiply those factors by the base penalty (reduced for failing only the two-parent rate, if appropriate). For the last factor, we then multiply that reduction by a percentage based on the number of rates failed and number of consecutive years of failure. A state that fails only one rate in its first year of failure receives 100 percent of the severity reduction. If the state fails both rates in the first year or one rate in the second successive year, it receives 50 percent of this reduction. If the state fails both rates in the second successive year of failure, it receives 25 percent of this reduction. A state that is in its third or greater successive year of failure will not receive any reduction for the severity of the failure.

Accordingly, the penalty amount for Maine is \$7,128,745. Here are our calculations using an Excel spreadsheet:

State Information

Caseload Reduction Credit	Adjusted Target	Rate Achieved ²	Adjusted SFAG
2.5%	47.5%	19.1%	\$78,120,889

Reduction Above 50% Threshold	Number Engaged in Work, FY 10	Number Engaged in Work, FY 11	Adjustment Factor	Percentage of Reduction Available (due to years of failure, # of rates failed)
0.0%	2,256	2,412	0.5	0%

Penalty Calculations

Step	Base Penalty Amount	Threshold Tests	Reduction for Severity of Failure	Penalty Amount
Calculation	Prior Penalty + 2% of Adjusted SFAG	<ul style="list-style-type: none"> • Test 50% threshold • Test increase in # engaged in work 	If <i>both</i> tests met, multiply together threshold reduction, adjustment factor, percentage of severity failure reduction, and reduced penalty	Subtract reduction for severity of failure from reduced penalty
Result	\$7,128,745	Test 1: no Test 2: yes	\$0	\$7,128,745

² The participation rate achieved has been adjusted to remove cases with federally recognized good cause domestic violence waivers of work, pursuant to 45 CFR 261.51(b)(7).

Right to Appeal

In accordance with 45 CFR 262.7, this letter serves as a formal notice of an adverse action. You have the right to file an appeal with the HHS Departmental Appeals Board (DAB) pursuant to 45 CFR 262.7 and 45 CFR Part 16. If you wish to do this, you should submit the appeal, including a brief and supporting documents, to:

HHS Departmental Appeals Board
Appellate Division, MS 6127
Cohen Building, Room G-644
330 Independence Avenue, SW
Washington, D.C. 20201

Please send a copy of the appeal and any supplemental filings to:

HHS Office of the General Counsel
Children, Families and Aging Division
Mailstop 4280, Cohen Building
330 Independence Avenue, SW
Washington, D.C. 20201

You must file your appeal within 60 days of the date you receive this letter. If you choose to file an appeal and the penalty is upheld, interest charges will be calculated from the date of this letter and added to the amount of the penalty in accordance with the applicable provisions at 45 CFR 262.4(g).

Next Steps

The regulations provide several other options that you may choose to pursue at this point. If you elect one or more of those options and the penalty is not ultimately reduced or resolved, then at the end of that process, we will issue another notice of adverse action that will provide a 60-day appeal period.

First, you may dispute the penalty, as provided at 45 CFR 262.4, if you think our finding is wrong. Second, if you believe you have reasonable cause for failing to meet the participation rate, you may make a claim explaining your grounds for an exception from the penalty in accordance with 45 CFR 262.5. Third, as provided at 45 CFR 262.6, you may enter into a corrective compliance plan to correct the violation and demonstrate how you will achieve compliance with the work participation requirements. Fourth, if the state's noncompliance was due to circumstances that caused it to be a "needy" state (as defined in section 403(b)(5)) or due to extraordinary circumstances such as a natural disaster or regional recession, you may submit information substantiating a request that we make a discretionary reduction of the penalty in accordance with the provisions of 45 CFR 261.51(d).

If you wish to pursue one of these options, you must submit the appropriate materials within 60 days of the date you receive this letter. If you think our finding is incorrect, you should submit a letter explaining the grounds for your dispute, along with any documentation of your position. To make a claim of reasonable cause for failing to meet the rate, you should submit a letter describing the grounds for a reasonable cause exception, including any documentation to support your claim. If you would like to enter into a corrective compliance plan, you should submit such a plan. The plan must indicate that the state will correct the violation in accordance with the timeframe set forth in 45 CFR 262.6 (e)(1) by achieving its minimum participation rate in the required fiscal year. In addition, the plan must analyze why the state failed to meet the requirements, describe the milestones, including interim process and outcome goals, that the state will achieve to assure it comes into compliance on time, and include a certification by the Governor that the state is committed to correcting the violation in accordance with the plan. If you think the state is entitled to a discretionary reduction, you should submit a letter with documentation substantiating the circumstances of the failure.

Please note that you may exercise the options outlined above in turn, awaiting a decision on one before submitting materials for the next. In such case, you would have 60 days from the date you receive our response to the first claim to submit the materials required to exercise another option. If we deny a dispute of the penalty amount or a reasonable cause request, or a request under 45 CFR 261.51(d), we will issue another notice of adverse action that will provide a 60-day appeal period. If you submit a timely corrective compliance plan and are ultimately unable to correct the violation in the manner and within the timeframe set forth in the plan, then we will issue another notice of adverse action that will provide a 60-day appeal period.

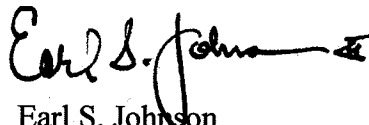
If we receive no written response within 60 days of the date you receive this letter, we will consider you to have waived your appeal rights and we will impose the penalty. Alternatively, you may choose to notify us that you have accepted our finding without pursuing any of the options described above. In both cases, we will impose the penalty by reducing your grant authorization in accordance with 45 CFR 262.1. Also, in the following fiscal year you will be required to expend additional state funds (which do not count toward the maintenance-of-effort requirement under TANF) to replace the reduction in your grant due to this penalty.

Please submit any materials, including a dispute of our finding of penalty liability, any claim for a reasonable cause exception, and/or a corrective compliance plan, or a request under 45 CFR 261.51 (d), within 60 days to:

Ms. Carol Monteiro
TANF Regional Program Manager
Administration for Children and Families
JFK Federal Bldg., Room 2000
15 New Sudbury Street
Boston, MA 02203

If you have questions about the information in this letter or need assistance in developing your response, please contact Ms. Carol Monteiro, the TANF Program Manager for Region 1.

Sincerely,

A handwritten signature in black ink that reads "Earl S. Johnson" with a stylized flourish at the end.

Earl S. Johnson
Director
Office of Family Assistance

cc: The Honorable Paul LePage, Governor
Ms. Carol Monteiro, TANF Program Manager for Region 1