Washington State Department of Social and Health Services

Transforming Lives

REPORT TO THE LEGISLATURE

WORKFIRST MAINTENANCE OF EFFORT AND WORK PARTICIPATION RATE THIRD AND FOURTH QUARTER CALENDAR YEAR 2024

Chapter 376, Laws of 2024

July 1, 2024

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Transforming lives

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Executive Summary

The 2023 Washington State Legislature mandated that the Department of Social and Health Services (DSHS) produce a report twice a year, beginning July 1, 2023, to track maintenance of effort and participation rates for the Temporary Assistance for Needy Families (TANF) program.[1] This report is provided to the Office of Financial Management (OFM), appropriate policy and fiscal committees of the state legislature, and the Legislative-Executive WorkFirst Poverty Reduction Oversight Task Force (LEWPRO).

Statutory Requirement

Chapter 376, Laws of 2024 Section 205(1) (h) requires this report to include the following:

- An overview of federal rules related to maintenance of effort, excess maintenance of effort, participation rates for TANF, and the child care development fund as it pertains to maintenance of effort and participation rates
- Countable maintenance of effort and excess maintenance of effort, by source, provided for the previous federal fiscal year (FFY)
- Countable maintenance of effort and excess maintenance of effort, by source, for the current fiscal year, including changes in countable maintenance of effort from the previous year
- The status of reportable federal participation rate requirements, including any impact of excess maintenance of effort on participation targets
- Potential new sources of maintenance of effort and progress to obtain additional maintenance of effort
- A two-year projection for meeting federal block grant and contingency fund[2] maintenance of effort, participation targets, and future reportable federal participation rate requirements
- Proposed and enacted federal law changes affecting maintenance of effort or the participation rate, what impact these changes have on Washington's TANF program, and the department's plan to comply with these changes.

Overview of Federal Rules

When Congress created the TANF program through the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, states were required to meet "maintenance of effort" (MOE) and federal Work Participation Rate (WPR) requirements to receive the full federal TANF block grant and avoid penalties. Recently, congress passed changes to TANF (June 2023), via the

[1] This report has been in existence since July 1, 2016, and was formerly required quarterly. In 2023, the report frequency was changed to twice a year: due on January 2nd and July 1st of each year.

[2] Contingency funds for state welfare programs are additional federal funds available to states, at their request, when unfavorable economic conditions exist. They are considered provisional payments, according to section 403(b) (3) (A) of the Social Security Act. Unfavorable economic conditions are determined based on calculations using a state's unemployment rate, or calculations using a state's SNAP caseload.

Fiscal Responsibility Act (FRA). While the legislation did not alter what qualifies as MOE, the amount of MOE will be impacted by two aspects of it:

- The recalibration of the caseload reduction credit
- A required minimum benefit payment threshold of $35 for programs like Washington's Working Families Support (WFS) program, which the WFS benefit level does not currently meet. This threshold must be met if our state wants to continue to provide this benefit for families and count these families' efforts towards WPR.

On the heels of the FRA, in October 2023, the federal Administration for Children and Families (ACF) published a Notice of Proposed Rule Making for TANF, which *if approved as currently written* could negatively impact MOE in Washington state.

With these recent federal actions in mind, the ***Calculating Work Participation Rate and the Proposed and Enacted Federal Law Changes Affecting MOE*** sections of this report includes the relevant changes *passed* in the FRA and a summary and additional analysis of the proposed rule. Prior to the FRA and the proposed rule, the most recent and substantial changes to federal TANF requirements passed almost two decades ago in 2005 as part of the Deficit Reduction Act.

Maintenance of Effort

Federal regulations applying to state MOE requirements are outlined in 45 CFR 263.1 through 263.9. States must generally spend at least 80% of the general fund state amount spent on Aid to Families with Dependent Children (AFDC) related programs in FFY 1994. This may be reduced to 75% if the state met its WPR targets for the year prior. Since ACF does not announce WPR results for any given period until years later, all our planning uses the higher 80% threshold of $272,964,476.

Excess Maintenance of Effort

Federal regulations outlined in 45 CFR 260.20 and 45 CFR 263.2 allow states to count funds expended in addition to the amount spent in direct support of the TANF and WorkFirst program as MOE. Referred to as "third-party" spending, this may include spending by:

- Other state agencies (e.g. Office of the Superintendent of Public Instruction)
- Local governments
- Private and non-profit charitable organizations

To be eligible as excess MOE, this third party spending must be directed toward a TANF-eligible population and advance one of the primary purposes of the TANF program:

- Providing assistance to needy families so that children may be cared for in their own homes or in the homes of relatives
- Ending dependence of needy parents on government benefits by promoting job preparation, work, and marriage
- Preventing and reducing the incidence of out of wedlock pregnancies and establishing annual numerical goals for preventing and reducing these pregnancies
- Encouraging the formation and maintenance of two parent families

TANF Participation Rates

WPR requirements are outlined in [45 CFR 261.20 through 261.25](). States must meet both the All Family (50%) and Two-Parent (90%) participation targets to avoid penalties.

The All Family WPR is calculated by dividing the total number of TANF families with a work-eligible individual who has successfully met the requirements outlined in 45 CFR 261.31 (numerator = X), by the total number of TANF families subject to work requirements (Y), minus certain families in sanction for refusal to participate (a) or eligible for the 12-month infant exemption (b) [denominator = Y – (a+b)]. A visual representation of this equation is as follows:

X = All families with a work-eligible individual who are satisfying work requirements

Y = All families with a work-eligible individual (those who are satisfying work requirements as well as those not meeting work requirements) minus those sanctioned or exempt.

All Family WPR = X/Y

A family is considered engaged in work for the purposes of the All Family WPR if a work-eligible individual in the family participates in a work activity at least 30 hours per week[3], provided the following conditions are met:

- At least 20 hours per week must involve participation in one or a combination of the following 'core' activities:
  - Unsubsidized employment
  - Subsidized private-sector employment
  - Work experience
  - On-the-job training
  - Job search or job readiness assistance
  - Community service programs
  - Vocational education training
  - Providing childcare services to an individual participating in a community service program

- The remaining 10 hours per week ('non-core') may involve the above noted activities or the following:
  - Job skills training directly related to employment
  - Education directly related to employment
  - Satisfactory attendance at high school or a high school equivalency program

The Two-Parent WPR is calculated by dividing the total number of TANF families with two work-eligible parents who successfully met the requirements outlined in 45 CFR 261.32 by the number of TANF households that have two work eligible parents, minus certain families in sanction for refusal to participate. Two-Parent households are not eligible for the federal infant exemption exclusion mentioned above.

[3] Single parents with a child under age six in the household are only required to engage in 20 hours of 'core' activities per week.

A family with two work-eligible parents counts as engaged in work activities for the purposes of the Two-Parent WPR if the parents in the family are participating in work activities for a combined average of at least 35 hours per week and the following conditions are met:

- At least 30 hours per week must involve participation in one or a combination of the following 'core' activities:
  - Unsubsidized employment
  - Subsidized private-sector employment
  - Work experience
  - On-the-job training
  - Job search or job readiness assistance
  - Community service programs
  - Vocational education training
  - Providing childcare services to an individual participating in a community service program.

- The remaining 5 hours per week ('non-core') may involve the above noted activities or the following:
  - Job skills training directly related to employment
  - Education directly related to employment
  - Satisfactory attendance at high school or a high school equivalency program

Calculating Work Participation Rate

In general, states must maintain a minimum All Family WPR of 50% (45 CFR 261.31) and a Two-Parent WPR of 90% (45 CFR 261.32). However, actual WPR targets that the state must meet vary based upon multiple factors.

The caseload reduction credit detailed in 45 CFR 261.40 through 261.44 and amended by the FRA, allows states to reduce their target WPRs based on the number of percentage points by which the size of the state's caseload has fallen since 2005 for reasons other than changes in eligibility rules. Health and Human Services (HHS) calculates the state's caseload reduction credit for each year by comparing the average monthly number of families receiving assistance funded by federal TANF or state MOE funds of the prior FFY with the state's average monthly caseload in 2005. For example, if the state's 2011 average caseload is 10% less than its 2005 average monthly caseload, the state would receive 10 percentage points of caseload credit toward its WPR for 2012, lowering the rate it must meet for All Families from 50% to 40% (CBPP, Changes in TANF Work Requirements, 2013). States may not include caseload reductions associated with changes in federal law or changes the state made to its eligibility criteria compared to the criteria used prior to 2005. Effective in FFY 2026 per FRA, the caseload reduction credit base year will be recalibrated to 2015.

45 CFR 261.43 also permits states to further reduce its target requirements if they are investing state and third-party MOE in excess of grant and contingency fund matching requirements ("excess MOE" discussed above). The number of cases with assistance-related expenditures from excess MOE may be subtracted from the total caseload for the FFY.

For example, if $45,000,000 is determined to be excess MOE from assistance-related expenditures, and the average expenditure per case is $4,500, the current FFY caseload can be reduced by $45,000,000 / $4,500 = 10,000 cases. This reduction provides what is termed the "adjusted caseload," which is used during caseload comparisons when calculating the caseload reduction credit referenced above.

Below is a formula that further explains the caseload reduction credit formula:

- Step 1: Total MOE - Total Required MOE = Excess MOE
- Step 2: Excess MOE Assistance Cases / Expenditure Per Case = Cases Funded by Excess MOE
- Step 3: Actual FFY Caseload – Assistance Cases Funded by Excess MOE = Adjusted Final Caseload
- Step 4: Adjusted Final Caseload is compared to FFY 2005 to determine percent of caseload decrease = Caseload Reduction Credit

Child Care Development Fund

The following childcare subsidy expenditures may be counted as TANF MOE, per 45 CFR 263.3:

- State funds used to meet the requirements of the Child Care Development Fund (CCDF) up to the amount the state must expend for quality CCDF matching funds. These dollars can be double-counted as both CCDF match and TANF MOE
- Other childcare expenditures that have not been used as matching funds or MOE for any other federal child care

MOE Penalties

Consequences for failure to meet MOE requirements outlined in 45 CFR 263.8 include a dollar-for-dollar reduction in the TANF block grant the subsequent year, and the requirement to expend additional state funds equal to the amount the state fell short.

Lingering Effects of the COVID-19 Pandemic on WPR

The reported WPR began to drop off in April 2020. This decline is reflected in the achieved WPR for FFY 2021, 2022 and 2023, and was the result of effects of the COVID-19 pandemic and subsequent policy changes Washington state made to support families during the public health crisis. Even though the economic impacts of the pandemic have begun to ease and work requirements have resumed, neither reported WPR has yet to reach its pre-pandemic levels. Since summer 2023, both reported WPRs appear to have leveled off.

Rates have not returned to pre-pandemic norms due in large part to current DSHS staffing shortages, resulting in case managers with larger caseloads having less time to engage clients in activities and to a lesser degree, the large influx of immigrants who were initially not eligible to engage in work or certain work activities due to their federal immigration status. Recently, many of these newly arrived immigrants became eligible to engage in work activities, and thus we expect these impacts to WPR from immigrant families to be short-term.

Countable MOE and Excess MOE, by Source for Previous FFY (2023)

Washington state successfully met its WPR for FFY 2022. For FFY 2023, its requirement was:

FFY 1994 expenditures $341,205,595[4] x 0.75 = $255,904,196 required for FFY 2023

FFY 2023 MOE EXPENDITURES

Source	2023
DSHS – Budgets	$122,958,428
Working Connections Child Care	$33,211,579
Department of Labor and Industries – Medical Assistance Fund	$93,992,281
Office of Public School Instruction – Learning Assistance Program	$249,905,872
Office of Public School Instruction – Learning Assistance Program, High Poverty	$97,342,060
Office of Public School Instruction – Dropout Reengagement Program	$21,240,660
Washington Student Achievement Council – Washington College Grant	$59,290,671
Washington Student Achievement Council – College Bound Scholarships	$141,349
Department of Children, Youth, & Families – Early Childhood Education and Assistance Program (includes CCDF double count)	$94,286,500
Department of Children, Youth, & Families – Home Visiting & Needs Based Grant	$6,558,212
Department of Commerce - Housing Programs, Emergency Rental Assistance	$43,805,477
Department of Agriculture – Tribal Food Pantries	$513,391
Northwest Harvest	$12,043,811
Second Harvest of Inland Northwest	$928,861
Annual Total	**$836,219,152**

[4] When a state meets its participation rates in the prior year, qualified state expenditures for the following year must equal at least 75% of historic state expenditures (FFY 1994).

Countable MOE and Excess MOE, by Source for Current FFY (2024)

Washington state successfully met its WPR for FFY 2023. For FFY 2024, its requirement is:

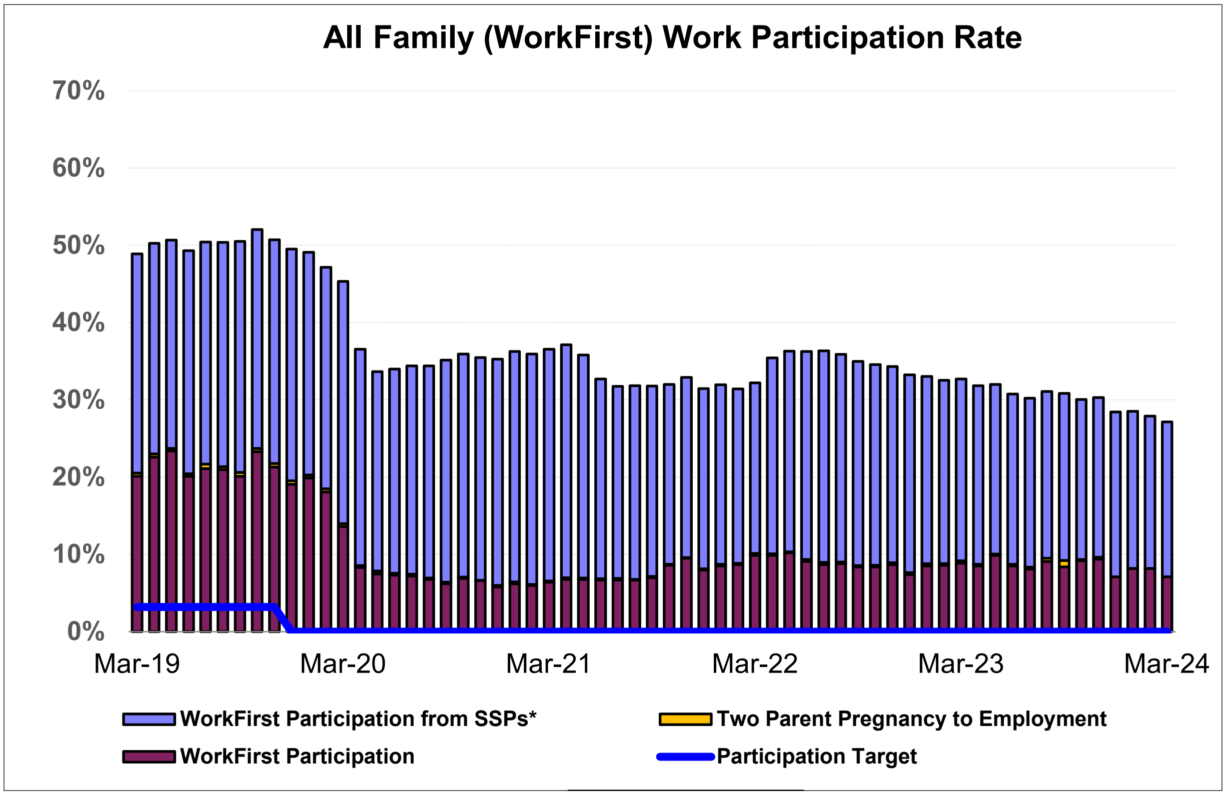
FFY 1994 expenditures $341,205,595[5] x 0.75 = $255,904,196 required for FFY 2024

PROJECTED FFY 2024 MOE EXPENDITURES

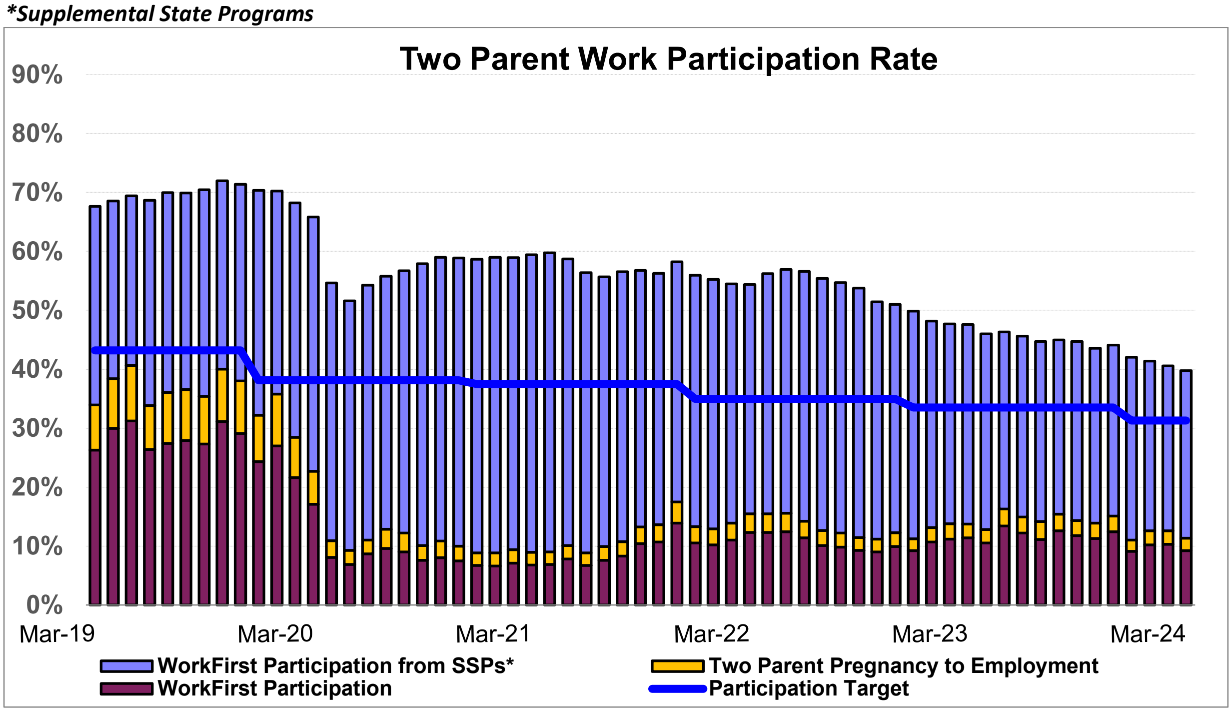
Source	2024	Change from 2023
DSHS – Budgets	$122,958,428	$0
Working Connections Child Care	$33,211,579	$0
Department of Labor and Industries – Medical Assistance Fund	$93,992,281	$0
Office of Superintendent of Public Instruction – Learning Assistance Program	$249,905,872	$0
Office of Superintendent of Public Instruction – Learning Assistance Program, High Poverty	$97,342,060	$0
Office of Superintendent of Public Instruction – Dropout Reengagement Program	$21,240,660	$0
Washington Student Achievement Council – State Needs Grant	$59,290,671	$0
Washington Student Achievement Council – College Bound Scholarships	$141,349	$0
Department of Children, Youth, & Families – Early Childhood Education and Assistance Program (includes CCDF double count)	$94,286,500	$0
Department of Children, Youth, & Families – Home Visiting and Needs Based Grant	$6,558,212	$0
Department of Commerce - Housing Programs, Emergency Rental Assistance	$43,805,477	$0
Department of Agriculture – Tribal Food Pantries	$513,391	$0
Second Harvest of Inland Northwest	$928,861	$0
Northwest Harvest Foodbank	$12,043,811	$0
Department of Revenue – Working Families Tax Credit	*Yet to be determined*	*Yet to be determined*
DSHS - Child Support Pass Through	$2,000,000	$2,000,000
Annual Total	**>$838,219,152**	**> $2,000,000**

[5] When a state meets its participation rates in the prior year, qualified state expenditures for the following year must equal at least 75% of historic state expenditures (FFY 1994).

Status of Reportable Federal Work Participation Rate[6]



Supplemental State Programs



Supplemental State Programs

[6] Includes impact of excess MOE and caseload reduction on participation target. Sources: EMAPS and TARDIS

MOE: Progress and New Sources

In 2023, DSHS reestablished Northwest Harvest Food Bank's MOE partnership. Through collaborating with the Department of Revenue, DSHS has also secured the Working Families Tax Credit (WFTC), as a new state MOE expenditure. In addition, beginning in 2024, DSHS will begin counting state funds that support the pass-through of child support payments to TANF families (if disregarded from the family's income when determining continued benefit levels)[7] as another new source of MOE. Currently, the state share of child support pass-through is a relatively small amount, around $2 million per year, but this will increase significantly in the future due to passage of Engrossed Substitute House Bill 1652 (Chapter 174, Laws 2024). ESHB 1652 passes-through all current child support to TANF families and will not count it as income for the purposes of TANF, effective January 1, 2026.

The State Auditor's Office reviewed and found no exceptions with the FFY 2022 MOE process between DSHS and external partners and found DSHS in compliance with federal MOE guidelines. DSHS submitted the ACF-204 report (FFY 2023) to its federal grantor in December 2023.

[7] This is practice which DSHS has been doing since Feb. 2021, pursuant to Second Substitute Senate Bill 5144 (Chapter 349, Laws of 2020).

Two-year Projection: Meeting Federal Block Grant and Contingency Fund MOE

PROJECTED FFY 2025 and 2026 MOE EXPENDITURES[8]

Source	2025 Amount	2026 Amount
DSHS – Budgets	$122,958,428	$122,958,428
Child Care (includes CCDF Double Count)	$33,211,579	$33,211,579
Department of Labor and Industries – Medical Assistance Fund	$93,992,281	$93,992,281
Office of Superintendent of Public Instruction – Learning Assistance Program	$249,905,872*	$249,905,872*
Office of Superintendent of Public Instruction – Learning Assistance Program, High Poverty	$97,342,060*	$97,342,060*
Office of Superintendent of Public Instruction – Dropout Reengagement Program	$21,240,660*	$21,240,660*
Washington Student Achievement Council – State Needs Grant	$59,290,671	$59,290,671
Washington Student Achievement Council – College Bound Scholarships	$141,349	$141,349
Department of Children, Youth, & Families – Early Childhood Education and Assistance Program	$94,286,500	$94,286,500
Department of Children, Youth, & Families – Home Visiting and Needs Based Grant	$6,558,212	$6,558,212
Department of Commerce - Housing Programs, Emergency Rental Assistance	$43,805,477	$43,805,477
Department of Agriculture – Tribal Food Pantries	$513,391	$513,391
Second Harvest of Inland Northwest	$928,861	$928,861
Northwest Harvest Foodbank	$12,043,811	$12,043,811
Department of Revenue – Working Families Tax Credit	*Yet to be determined*	*Yet to be determined*
DSHS - Child Support Pass Through	$2,000,000	*Yet to be determined*
Annual Total	**$838,219,152**	**> $836,219,152**

E2SHB 1238 (Chapter 379, Laws of 2023) provides free breakfast and lunch to certain public elementary school children. MOE expenditures in FFY 2025 & 2026 may be impacted, but the exact impact is unknown.

[8] These projected amounts do not account for proposed changes in the federal Notice of Proposed Rule Making discussed in the next section.

Two Year Projection: WPR Targets and Future Reportable WPR Requirements

Target and Achieved WPR Projections

Report Year	All Family Target	All Family Achieved	Two Parent Target	Two Parent Achieved
2022	0.0%	33.9%	35.0%	55.7%
2023	0.0%	32.3%	33.5%	47.3%
2024 (Oct-Apr)	0.0%*	28.5%	31.3%*	41.6%

Projections by DSHS/ESA

Proposed and Enacted Federal Law/Rule Changes Affecting MOE and WPR

Federal Law Changes

In 2023, Congress passed the Fiscal Responsibility Act (FRA), making several changes to TANF that impact the caseload reduction credit including the recalibration of the base year from 2005 to 2015. This credit allows a state to reduce its required WPR target. The greater the drop in caseload between the base year and the current fiscal year, the higher the credit and the lower the WPR targets. It is a disadvantage for Washington state that the base year was recalibrated to 2015, as the caseload was considerably higher in 2005 when compared to 2015. This will make it more challenging for Washington to meet the federal WPR.

The legislation also included an optional pilot for five states that would lift the WPR requirement and consequently the need for excess MOE for six years, requiring instead that participating states would meet agreed upon performance benchmarks. DSHS has yet to determine if the agency will apply for the pilot.

In late May 2024, ACF published a Dear Colleague letter with additional information about the pilot, but no final administrative rule or details on other elements of the FRA changes have been provided. Once federal rule is available, DSHS will be able to more accurately evaluate program impact. FRA changes impacting WPR do not go into effect until FFY 2026 (October 1, 2025), which gives our state time to respond to these new requirements.

DSHS finds that if current mitigation strategies are continued and/or bolstered, clients should not see a significant change to services or engagement practices and the state should be able to continue to meet federal WPR requirements. It would, however, require additional state budget investment in the TANF program to increase the Working Families Support benefit payment level from $10 to $35 per month.

Proposed Federal Rule Changes

In October 2023, ACF issued a federal Notice of Proposed Rulemaking (NPRM) - Regulation Identifier Number 0970-AC97. This notice speaks to amend allowable MOE uses for TANF, which will further negatively impact Washington's ability to meet federal WPR requirements based on current practice. If this draft rule if finalized as is, it would limit state flexibility in spending federal TANF and claiming state MOE funds to a narrower population and band of program areas. It also would entirely eliminate third party non-governmental MOE sources which would eliminate DSHS's MOE partnership with Second Harvest of Inland Northwest and Northwest Harvest (the latter just re-partnered with DSHS).

Washington provided formal feedback to ACF, suggesting ways in which it could amend the rule to be clearer and allow more flexibility for states. Once the rule is finalized, all the provisions therein will go into effect the following FFY. The earliest the rule could go into effect would be FFY2025 or October 1, 2024. However, since the rule has not yet been finalized as of May 2024, it is more likely that it would go into effect FFY 2026 or later.

Considering the potential changes in the draft rule and the FRA adjustments to TANF, if Washington wants to continue to provide flexible case management that focuses on finding meaningful work activities and training for clients, the state will need to make the Working Families Support program a more robust benefit for families, increasing it from $10 to $35, effective in the next Biennial Budget (2025-2027).