New Federal Dollars for New York

The TANF Emergency Contingency Fund in the American Recovery and Reinvestment Act of 2009

June 2009

Part I: The Basics

Executive Summary

- The American Recovery and Reinvestment Act of 2009 (ARRA) established the Emergency Contingency Fund within the federal Temporary Assistance to Needy Families (TANF) program for states to provide more support to needy families.

- For this purpose, New York has access to $1.22 billion in additional aid for federal fiscal years (FFYs) 2009 and 2010 to be drawn from this new fund and a prior existing contingency fund (called the regular Contingency Fund).

- New York may draw up to $488 million annually from the regular Contingency Fund depending on the size and increases to the state's unemployment rate or food stamp caseload along with matching state spending.

- This fund is likely to run out in FFY 2009 or FFY 2010, but the new Emergency Contingency Fund is capped at a high level—$5 billion nationally—and states are unlikely to use it up.

- Through the new Emergency Contingency Fund, New York may receive federal dollars for 80 percent of estimated or actual increased spending in three areas:
  - Basic assistance,
  - Non-recurrent short-term benefits,
  - Subsidized employment.

- New York must meet certain requirements to receive this aid:
  - Basic Assistance: Increased quarterly caseloads and expenditures relative to a base year quarter,
  - Non-recurrent short-term benefits: Increased quarterly expenditures relative to a base year quarter,
  - Subsidized employment: Increased quarterly expenditures relative to a base year quarter.

- New York may apply now for the first three quarters of FFY 2009.

- New York is not restricted to using federal ECF reimbursement in the categories for which it qualifies; it may use them for the whole range of TANF-related services.

The American Recovery and Reinvestment Act of 2009 (ARRA) creates an opportunity for New York to receive new federal dollars while providing sorely-needed assistance to low-income families. Through its TANF (Temporary Assistance to Needy Families) provisions, the ARRA provides federal reimbursement for 80 percent of increased spending by the state in 2009 and 2010 in three areas: basic assistance, non-recurrent short-term benefits and subsidized employment. In all, New York may draw an additional $1.22 billion, half its annual TANF block grant of $2.44 billion, over two years.[1]

The ARRA sets up a new temporary TANF Emergency Contingency Fund (ECF) to help states respond to consequences of the current recession, that is, how to respond to increased need for assistance with fewer public dollars. Over the past 18 months, the number of families in New York that need some form of assistance has grown dramatically. Unemployment grew in 2008 from 4.7 percent in January to 6.6 percent at the end of the year. Food stamp assistance rose from 1.85 million recipients in December 2007 to 2.17 million in December 2008, an increase of 17.5 percent over one year. By February 2009, these two figures increased to 7.8 percent and 2.25 million respectively.

When the TANF program first was established in 1996, it included a Contingency Fund to help states weather such economic downturns. This fund was retained when the Deficit Reduction Act of 2005 reauthorized the TANF program through federal fiscal year (FFY) 2010. Under the rules for this regular Contingency Fund[2], New York has access up to an additional 20 percent of its annual State Family Assistance Grant (TANF block grant amount), or approximately $488 million, per year. Monthly eligibility depends on the size and increases to the state's unemployment rate or food stamp caseload along with matching state spending.[3] This fund is likely to be exhausted at some point in FFYs 2009 or 2010.

New Funds that New York May Access

With the passage of the ARRA and the establishment of the new ECF however, New York and other states were given more incentive to provide needed services to poor families. States now have access through FFY 2010 to an even greater portion of their grant in new federal dollars—up to one half their annual TANF block grant from a combination of the two contingency funds. Since the new Emergency Contingency Fund is capped at almost twice what the Congressional Budget Office estimates states would likely use over two years—$5 billion—New York should have access to the entire potential $1.22 billion in new aid.

New York is not restricted to spending resulting federal dollars in the categories for which it qualified. The state may use dollars from ECF reimbursement for any purpose allowable under

[1]The exact amount is $1,221,465,301. It becomes available retroactively on October 1, 2008, the start of the federal fiscal year. http://www.acf.hhs.gov/programs/ofa/policy/pa-ofa/2009/pa200901a.htm.
[2] This contingency fund will be referred to as the "regular Contingency Fund" to distinguish it from the Emergency Contingency Fund.
[3] Office of Family Assistance, Temporary Assistance for Needy Families Program Instruction, No. TANF-ACF-PI-2008-04: *Federal TANF Contingency Funds*, May 6, 2008. http://www.acf.hhs.gov/programs/ofa/policy/pi-ofa/2008/200804/PI200804.htm.

TANF. Or, New York may choose to use these federal funds for estimated expenditure increases in basic assistance, subsidized employment and non-recurrent short-term benefits.

Additionally, the state may not transfer any ECF money to the Social Services Block Grant (SSBG) or the Child Care Development Block Grant (CCDBG). However, the ARRA does provide flexibility in spending carryover funds. Previously, a state could only spend these funds on assistance; now states may apply them to any permissible use under the rules of the TANF block grant.

Rules on Qualifying for the New Emergency Contingency Fund

The requirements for this emergency funding differ from the triggers used to award regular contingency fund money. In basic assistance, New York must demonstrate first that the number of families that receive assistance funded with TANF dollars, and in New York's separate state programs (SSP) for which the state claims maintenance-of-effort (MOE) expenditures, is higher for a given quarter in FFYs 2009 and 2010 than in the same quarter in an earlier base year. Either 2007 or 2008, whichever year has the lower caseload numbers, will become the base year for basic assistance. To further qualify for emergency funds, the combined TANF and state MOE expenditures for basic assistance must have increased also for corresponding quarters.

For the remaining two categories—non-recurrent short-term benefits and subsidized employment—the state's TANF and MOE expenditures for a given quarter in FFYs 2009 and 2010 must be higher than such expenditures in the corresponding quarter of the base year. Third party spending on programs in these areas counts towards these amounts, too. Again, whichever year has the lesser expenditures—2007 or 2008—will serve as the base year for comparing current quarterly spending. The base year does not have to be the same for all three categories and New York will qualify only for amounts that represent 80 percent of increased spending.

On April 3, 2009, the federal Department of Health and Human Services (HHS) issued rules describing the specific procedures for determining awards from the ECF. States currently make quarterly reports on expenditures in the various categories for which TANF funds are used with federal form ACF-196. HHS has asked states to use the definitions from this form when applying for ECF awards. However, because the ACF-196 represents expenditures reported in a quarter and not necessarily made then, HHS is developing a new form for states to report expenditures actually made, or estimated to be made, in the quarter for which they want emergency funds. Now states are able to report certain expenditures for non-recurrent short-term benefits and subsidized employment in more than one category on the ACF-196. States will use the new form also to report all expenditures together for each of these categories.[4]

At the same time, states are required to submit updates on actual quarterly spending for the two base years—2007 and 2008. This will allow HHS to make comparable determinations on increases in current spending and avoid problems stemming from "lumpy" quarters in ACF-196

[4] HHS/ACF, Office of Family Assistance, Temporary Assistance for Needy Families Policy Announcement No. TANF-ACF-PA-2009-01: *The Emergency Fund for TANF Programs,* April 3, 2009. http://www.acf.hhs.gov/programs/ofa/policy/pa-ofa/2009/pa200901.htm.

reports. Uneven quarters result because these quarterly amounts represent reported expenditures only. Also, the state refigures and updates spending data as it uses carryover funds and as errors in classification are discovered.[5]

Because it wants to award ECF money as quickly as possible, states may apply for these funds immediately and HHS "will accept reasonable estimates for caseload and expenditure data."[6] HHS expects states to provide explanations for estimated increases in spending and will accept this information up to one month before the beginning of a quarter. States will revise estimates until they report final spending figures and HHS will revise ECF award amounts based on these final expenditures.

For a more detailed look at New York's experience to date, and whether and how it may be able to qualify for funds through the new Emergency Contingency Fund, please see the second of FPI's ongoing series of issue briefs on this topic, *New Federal Dollars for New York.*

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[5] New York State Division of Budget email communication; and,
[6] HHS/ACF, Office of Family Assistance, Temporary Assistance for Needy Families Policy Announcement, No. TANF-ACF-PA-2009-01: *The Emergency Fund for TANF Programs*, April 3, 2009. http://www.acf.hhs.gov/programs/ofa/policy/pa-ofa/2009/pa200901.htm.