



Welfare Reform: TANF, the Minimum Wage, and Other Labor Laws

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Issue

TANF workfare programs (in which welfare recipients work for their benefits) have raised minimum wage and payroll taxation issues. In the absence of special language in the 1996 law, the Clinton Administration held that most workfare participants are "employees" under the Fair Labor Standards Act (FLSA), and hence, must be "compensated" at the minimum wage rate. Because TANF sets minimum weekly hours of work (now 30 hours for single-parent families), the DOL ruling might require some states to raise benefits for workfare participants. Under H.R. 4, as passed by the House in February, even greater benefit increases would be required, as that bill imposes a 40 hour work week for all TANF families. In discussing the Bush Administration plan to continue welfare reform, Secretary of Health and Human Services Tommy Thompson said on March 6, 2002, that the Bush Administration would insist that TANF recipients receive "at least the minimum wage for the hours they work, including community service jobs." Another issue is whether workfare "wages" are subject to payroll taxes. If Congress should increase the federal minimum wage rate, it would increase the number of states whose workfare programs might have to be changed to meet FLSA and Internal Revenue Service (IRS) requirements.

Background

Workfare and the Minimum Wage. TANF law sets minimum average weekly hours of work; for most single parents, they rose from 20 hours weekly in FY1998 to 30 hours in FY2000 (for single parents with a preschool child, hours remained at 20; two-parent families must work 35 hours weekly). At the federal minimum wage rate of \$5.15, a 30-hour weekly workfare assignment equates to \$154.50 in benefits (\$669 per month). However, in 11 states and the District of Columbia minimum wage rates exceed \$5.15; in these jurisdictions TANF workfare "jobs" would have to pay more than \$154.50 for 30 hours weekly. Only in New York (in Suffolk County), Alaska, and Wisconsin (Community Service program), are TANF maximum benefits for a three-person family high enough to provide the required compensation for 30 hours of work by a single-parent family. Many of the other states could observe the workfare minimum "wage" by adding food stamps to the calculation (as is allowed by DOL policy), but some states would have to increase cash benefits. H.R. 4, passed by the House in February, would lengthen the TANF work week to an average of 40 hours (at the federal minimum wage rate, this would require monthly benefits of \$892).

The Clinton Administration's decision that most workfare recipients are covered by the minimum wage has been protested by the National Council of State Human Service Administrators and some governors, but applauded by organized labor. At the same time, organized labor fears that unless benefits for workfare participants reflect the minimum wage rate, wage levels for entry-level jobs in both the public and private sectors will be depressed and some regular workers may be displaced. The Bush Administration TANF reauthorization proposal would require an average of 24 hours weekly in "work," defined as unsubsidized employment, subsidized employment (private or public), on-the-job training, supervised work experience, and supervised community service (plus, on average, 16 hours of other activities chosen by the state). At the federal minimum wage, 24 weekly hours of work would yield \$123.60 weekly (\$535 monthly). TANF maximum benefits for a 3-person family would meet this standard in only 10 states, but most of the other states could meet the standard by counting food stamp benefits. In the 107th Congress proposals were made to increase the federal minimum wage to \$6.65 an hour, but none passed.