

State Notes

TOPICS OF LEGISLATIVE INTEREST

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Federal TANF Maintenance of Effort for Michigan in FY 2009-10 **By David Fosdick, Fiscal Analyst**

It is likely that the enacted fiscal year (FY) 2009-10 appropriation will include a large reduction in General Fund/General Purpose (GF/GP) funding. Implementing budget bills with significant reductions in available GF/GP funding creates a number of complications that will need to be resolved in the months ahead. One of the more significant complications facing the State will be structuring the appropriation to ensure compliance with the Federal Temporary Assistance for Needy Families (TANF) Maintenance of Effort (MOE) requirements. Preliminary estimates of Michigan's FY 2009-10 MOE claim suggest that the State will struggle to meet the Federal MOE standard this fiscal year. This article provides a brief outline of the Federal TANF MOE requirement, reviews Michigan's MOE claim since the creation of the TANF block grant in the mid 1990s, and provides some discussion related to the likely problems associated with the FY 2009-10 Michigan TANF MOE claim.

Background of the MOE Requirement

The TANF Federal block grant, a major element of Federal welfare reform legislation passed in 1996, replaced several Federal programs that provided funds to match state efforts for cash welfare, emergency assistance, and job training. To ensure that the block grant funding did not end up replacing state financial effort for these functions, the legislation requires states to demonstrate spending for benefits to needy families at 75.0% of the level allocated in FY 1993-94. This requirement, termed Maintenance of Effort, would increase to 80.0% of the FY 1993-94 standard if a state failed to meet the work participation levels for TANF recipients mandated in Federal law governing the provision of cash assistance.

Since the enactment of Federal welfare reform legislation, Michigan has been required to demonstrate eligible spending of \$468.5 million each year to meet the Federal 75.0% MOE standard. If Michigan were to fail to meet the Federal work participation requirement (increasing the MOE requirement to the 80.0% standard), the State would be required to demonstrate eligible spending of \$499.8 million.

The Federal penalty to states that fail to meet the MOE standard is a dollar-for-dollar reduction in the subsequent TANF block grant equal to the amount of noncompliance with the MOE standard and a requirement that the state spend additional GF/GP funding in its TANF program equal to the amount of the noncompliance. Unlike other Federal requirements imposed upon states, the TANF program provides no process for states to avoid the penalty by demonstrating reasonable cause or by implementing a compliance plan.

MOE-Eligible Expenditures

Most activities that are eligible for Federal TANF spending are also eligible to meet the MOE requirement. Federal law gives states a great deal of flexibility in using their TANF grant. States must demonstrate that an expenditure of TANF funds will assist the state in achieving one of four goals established in Federal statute. The TANF statutory goals are:



- to provide assistance to needy families so that children may be cared for in their own homes or the homes of relatives;
- to end dependence of needy parents on government benefits through work, job training and marriage;
- to reduce the incidence of out-of-wedlock pregnancy; and
- to promote the formation and maintenance of two-parent families.

While defining MOE-eligible expenditures as any expenditure eligible for Federal TANF financial support is a good rule of thumb, there are two circumstances in which Federal law permits expenditure of Federal TANF funding on a function but restricts a state from claiming MOE:

- While Federal law permits states to use TANF dollars for state efforts that were not part of the state pre-TANF welfare program, states may claim MOE only for expenditures on state programs above those provided in 1995.
- Federal law permits states to use TANF funds to support pre-welfare reform programs that do not meet one of the four statutory goals; however, states are not permitted to claim MOE on GF/GP spending in these programs.

Michigan's MOE Claims Since FY 1996-97

Table 1 provides a summary of the structure of the Michigan MOE claim since FY 1996-97. This table is based upon the official MOE claim submitted by the State to the Federal government for each fiscal year, and, for the given year, does not necessarily represent all the MOE available to the State (payments the State could use to meet the MOE target). As noted previously, the 75.0% MOE target mandated for Michigan is \$468.5 million.

While Table 1 can help provide an understanding of the structure of the MOE claim, there are some things to keep in mind when reading this table. The MOE claim for activities within the Department of Human Services appropriation shows large changes from year to year. This is likely not the result of changes in program size or policy. Because TANF and GF/GP funding that is used to claim MOE can be largely used interchangeably, Department decisions of whether to use TANF block grant funding or GF/GP will have an impact on the MOE claim. For example, the State could spend \$400.0 million Gross in the Family Independence Program (FIP) line item in two consecutive years. In year one, the Department could allocate \$200.0 million in TANF to this effort and \$200.0 million in GF/GP funding; in year two, the Department could allocate \$100.0 million in TANF support and \$300.0 million in GF/GP funding. This would not result in any observable change in the structure of the FIP program but would affect the spread of Michigan's MOE claim within the Department of Human Services in a significant way.



Table 1

Michigan MOE Claim by Expenditure Type FY 1996-97 to FY 2008-09 (in millions)											
Fiscal Year	DHS Admin.	DHS Child Services	DHS Assist.	Emply. Training	Comm. Health	K-12 Edu	Public Service Comm.	Higher Ed. Swaps	Non-Govt. Claims	Tax Policy	Total
1996-97	\$89.1	\$26.6	\$332.9	\$35.6	\$4.0	\$12.1	\$0	\$0	\$0	\$0	\$500.4
1997-98	\$43.2	\$50.4	\$370.9	\$22.8	\$3.7	\$11.2	\$0	\$0	\$0	\$0	\$502.2
1998-99	\$43.3	\$16.5	\$381.3	\$5.0	\$0	\$14.0	\$0	\$0	\$0	\$11.3	\$471.3
1999-2000	\$19.5	\$7.6	\$406.0	\$7.1	\$1.4	\$27.0	\$0	\$0	\$0	\$0	\$468.5
2000-01	\$10.8	\$1.2	\$398.6	\$3.8	\$2.4	\$70.1	\$0	\$0	\$0	\$0	\$486.8
2001-02	\$8.7	\$1.4	\$372.6	\$7.7	\$2.2	\$78.1	\$13.9	\$0	\$0	\$0	\$477.6
2002-03	\$12.0	\$0	\$360.5	\$1.2	\$2.0	\$93.4	\$0	\$0	\$0	\$0	\$469.1
2003-04	\$23.0	\$0	\$353.7	\$1.2	\$2.2	\$131.7	\$8.6	\$0	\$0	\$0	\$520.6
2004-05	\$23.8	\$1.1	\$375.9	\$7.7	\$0	\$78.5	\$25.0	\$0	\$0	\$0	\$504.0
2005-06	\$50.3	\$0	\$406.2	\$8.8	\$2.2	\$70.0	\$38.3	\$0	\$0	\$0	\$567.8
2006-07	\$44.1	\$0	\$375.5	\$5.8	\$2.8	\$73.2	\$39.6	\$0	\$0	\$0	\$541.0
2007-08	\$139.0	\$9.4	\$333.1	\$29.2	\$3.7	\$97.9	\$33.2	\$94.9	\$49.5	\$0	\$789.9
2008-09 Estimated	\$106.6		\$195.6	\$18.4	\$3.7	\$100.0	\$51.3	\$170.0	\$0	\$70.3	\$715.8

Source: Department of Human Services

A trend that is worth exploring is differences in the spread of the MOE claim across State agencies. Table 2 shows that in FY 1996-97, 96.0% of Michigan's MOE claim was based upon spending in the Department of Human Services (formerly the Family Independence Agency) appropriation. In recent years, the MOE claim has become more reliant upon expenditures in other departments. The Department of Human Services (DHS) portion of the MOE claim will likely be about 65.0% of the \$468.5 million 75.0% MOE standard in FY 2008-09.

Reliance upon spending in multiple departments to meet the MOE standard has permitted the State to reduce GF/GP spending in the DHS appropriation. This does make it more difficult to track Michigan's MOE progress during budget development, however, and may make it more likely that appropriations across all agencies will not meet the Federal standard.

A major factor in Michigan's shift in the MOE claim away from the DHS appropriation is increased ability to count K-12 education spending as MOE-eligible. Expenditures for programs targeted to at-risk students and for early childhood educational activities have been built into Michigan's MOE claim since welfare reform was implemented in FY 1996-97. Table 3 shows how the K-12 component of Michigan's MOE has grown in the past decade from about 2.5% of the MOE 75.0% standard to over 20.0% of the standard in recent years.



Table 2

**Spread of MOE Claim Across State Departments
 FY 1996-97 to FY 2008-09**

Fiscal Year	DHS		DELEG		DCH		K-12		Public Serv. Comm		Higher Ed Swap		Tax Policy	
	% of MI Claim	% of 75% MOE	% of MI Claim	% of 75% MOE	% of MI Claim	% of 75% MOE	% of MI Claim	% of 75% MOE	% of MI Claim	% of 75% MOE	% of MI Claim	% of 75% MOE	% of MI Claim	% of 75% MOE
1996-97	90%	96%	7%	7%	1%	1%	2%	3%	0%	0%	0%	0%	0%	0%
1997-98	93%	100%	4%	4%	1%	1%	2%	2%	0%	0%	0%	0%	0%	0%
1998-99	94%	95%	0%	0%	0%	0%	3%	3%	0%	0%	0%	0%	2%	2%
1999-2000	94%	94%	0%	0%	0%	0%	6%	6%	0%	0%	0%	0%	0%	0%
2000-01	85%	88%	0%	0%	0%	1%	14%	15%	0%	0%	0%	0%	0%	0%
2001-02	80%	82%	0%	0%	0%	0%	16%	17%	3%	3%	0%	0%	0%	0%
2002-03	80%	80%	0%	0%	0%	0%	20%	20%	0%	0%	0%	0%	0%	0%
2003-04	73%	81%	0%	0%	0%	0%	25%	28%	2%	2%	0%	0%	0%	0%
2004-05	79%	85%	0%	0%	0%	0%	16%	17%	5%	5%	0%	0%	0%	0%
2005-06	81%	98%	0%	0%	0%	0%	12%	15%	7%	8%	0%	0%	0%	0%
2006-07	79%	91%	0%	0%	1%	1%	14%	16%	7%	8%	0%	0%	0%	0%
2007-08	62%	105%	0%	0%	0%	1%	12%	21%	4%	7%	12%	20%	0%	0%
2008-09 (Est)	42%	65%	3%	4%	1%	1%	14%	21%	7%	11%	24%	36%	10%	15%

Note: This table uses the current structure and names of State departments to describe the spread of MOE.

Source: Department of Human Services

Table 3

**K-12 MOE Expenditures
 FY 1996-97 to FY 2007-08**

Fiscal Year	MOE Dollar Claim	Percent of 75% MOE Standard
1996-97	\$12,125,500	2.6%
1997-98	11,197,300	2.4
1998-99	14,000,000	3.0
1999-2000	26,946,900	5.8
2000-01	70,109,000	15.0
2001-02	78,123,700	16.7
2002-03	93,437,000	19.9
2003-04	131,744,600	28.1
2004-05	78,451,000	16.7
2005-06	70,046,500	15.0
2006-07	73,185,200	15.6
2007-08	97,883,300	20.9

Source: Department of Human Services



TANF Contingency Funds and MOE Claims

The Federal law that created the TANF block grant program also created a separate pool of funding that is available to states that demonstrate severe economic distress, as measured by changes in food assistance caseload or the unemployment rate. States can receive an increase in Federal TANF funding (up to 20.0% above the standard TANF grant) by meeting an enhanced Federal MOE standard (100% of the FY 1993-94 spending less day care expenditure) and providing GF/GP funding at the Federal Medicaid matching rate for each dollar of increased Federal support.

Michigan successfully obtained the full amount of TANF contingency revenue available to the State in FY 2007-08 (\$155.0 million). Michigan also anticipates access to these funds for FY 2008-09. Efforts to obtain TANF contingency revenue explain the increases in the size of Michigan's MOE claim, from around \$500.0 million each year to nearly \$800.0 million, in these fiscal years.

Michigan's FY 2009-10 MOE Claim

During the FY 2009-10 budget process, legislative staff, the Office of State Budget, and the DHS have attempted to determine the likely MOE claim available to the State of Michigan in the current fiscal year. Significant reductions in expenditure in the enrolled DHS, Higher Education, and K-12 appropriation bills as well as the recognition of available carry-forward TANF funding linked to contingency awards will make it difficult for Michigan to meet MOE in FY 2009-10. Table 4 represents "a best case" estimate of possible MOE available to the State.

Table 4
Estimated FY 2009-10 Michigan MOE Claim
(best case)

MOE Claim	Amount
DHS Administration.....	\$13,314,700
DHS Child Services	9,225,400
DHS Assistance	19,562,900
Employment/Training.....	25,234,600
Community Health	3,682,700
K-12 Education	86,319,200
Public Service Commission	51,300,000
Higher Ed. Swaps	77,564,700
Tax Policy	202,131,000
Total.....	\$488,335,200
75% MOE Standard.....	\$468,518,400
Estimated Position Over/Under MOE.....	\$19,816,800
80% MOE Standard.....	\$499,752,900
Estimated Position Over/Under MOE.....	(\$11,417,700)

Source: Senate and House Fiscal Agency estimates



The MOE estimate provided in Table 4 suggests that Michigan could possibly meet the 75.0% MOE requirement but not the 80.0% requirement that will apply if the State does not meet the Federal work participation standard. This is significant because Michigan recently was notified by the Federal government that the State did not meet the work participation requirement in 2007.

The estimate provided in Table 4 is based upon a number of assumptions related to the structure of Michigan's final FY 2009-10 appropriation. As noted above, each number in this estimate is based upon an estimate of the best possible outcome for each element of the claim. There are a number of possible complications that would damage Michigan's ability to meet the MOE requirement; the major outstanding issues related to Michigan's MOE claim are outlined below.

Changes in State Earned Income Tax Credit

The Senate recently passed House Bill (H.B.) 4514 to freeze the State's Earned Income Tax Credit (EITC) at the level provided in FY 2008-09 (10.0% of the Federal EITC). The MOE amount in Table 4 assumes that the State EITC is at the level mandated in the statute authorizing the creation of the EITC (20.0% of the Federal credit). The assumed MOE claim for State EITC at 10.0% of the Federal benefit is about \$82.3 million; enactment of H.B. 4514 would move Michigan about \$119.8 million further away from the MOE target.

DHS/Department of Treasury Scholarship Swap

In the past year, the Governor proposed and the Legislature approved Senate Bill (S.B.) 1111, an FY 2007-08 supplemental appropriation that replaced \$107.8 million in GF/GP funding with Federal TANF revenue in State-operated need-based scholarship programs. General Fund/General Purpose support shifted from the scholarship programs was moved to the DHS appropriation to assist the State in meeting the Federal MOE standard.

In September of this year, the Office of Auditor General (OAG) released its single audit of the DHS for FY 2006-07 and FY 2007-08. In the audit the OAG questioned whether the basis for Michigan's MOE claim associated with shifting TANF support to scholarship programs, the reduction of out-of-wedlock births, was consistent with Federal law.

The DHS response to the OAG finding aggressively defended the appropriateness of the fund shifts. The Department cited communications from the U.S. Department of Health and Human Services to support the use of TANF funding for higher education and noted that other states (Georgia, New York, and Massachusetts) have claimed expenditure in scholarship programs as a strategy to reduce out-of-wedlock births in their TANF plan.

If the Federal government views the use of TANF funds for scholarship programs as inappropriate, Michigan will be liable through a possible reduction in the TANF block grant provided in future years. Table 4 assumes \$77.6 million in TANF MOE claims associated with shifting TANF support to scholarship programs.



The Structure of the School Aid Act

Public Act 121 of 2009, the recently enacted School Aid appropriation, assumes a decrease in State funding for FY 2009-10 of \$165 per pupil. Additionally, on October 22, 2009, the State Budget Director issued a letter of intent to prorate K-12 schools an additional \$127 per pupil absent legislative action on School Aid revenue. Without legislative action, the reduction will be in effect November 21, 2009. The Act also largely maintains funding for categorical grants used in Michigan's MOE claim at the levels provided in FY 2008-09. Table 4 assumes MOE associated with the School Readiness Program, Great Start Communities Grants, and At Risk funding at the same level claimed in FY 2008-09 (\$99.1 million).

The Act and proration letter do not specify where the reduction in per-pupil funding is to be achieved. It is reasonable to assume that some of the school districts receiving funding for MOE-claimable programs will choose to reduce these programs. This will lead to an indeterminate decrease in the State's MOE claim.

Child Care Development Block Grant Match Funds

The Federal Child Care Development Block Grant (CCDBG) provides funding for early education programs operated by states. Much like the TANF program, the statute governing the distribution of Federal CCDBG funds requires states to demonstrate maintenance of effort through the expenditure of state funds on child care programs. Additionally, states are required to provide matching funds to realize their full CCDBG grant.

Currently, it appears that the FY 2009-10 appropriation act does not fully meet Michigan's match requirement. A shortfall of \$6.1 million, largely associated with funding reductions in the child day care program, would reduce the Federal grant for CCDBG by about \$10.5 million. Determining this shortfall is complicated by Michigan's reliance upon School Aid categorical spending to meet the CCDBG MOE and match requirements, meaning that the decisions of individual districts to reduce per-pupil costs to meet appropriated support for K-12 could lead to a greater reduction in Federal CCDBG revenue.

Michigan could adjust the DHS appropriation to overcome the \$6.1 million shortfall. The fund shifts necessary to meet CCDBG MOE (GF/GP swapped with TANF) likely would lead to a dollar-for-dollar loss of TANF MOE.

Possible Sources of MOE

There are two additional sources of funding for Michigan's MOE claim. These MOE claims would not be an optimal use of State resources but would technically meet the Federal requirement. Fully exploiting these sources for MOE would provide an estimated \$90.1 million in MOE.

Michigan could provide TANF Federal block grant funding to a State university in exchange for an equal amount of private revenue. This revenue then would be allocated to DHS MOE-claimable activities. Universities provide need-based financial aid and this expenditure is TANF-eligible. This would require complete cooperation with the university since these funds are used by the university outside of the State Higher Education appropriation.



Michigan currently withholds about \$50.0 million in eligible MOE spending within the FIP cash assistance program. These funds are allocated to two-parent families and to disabled FIP recipients. Excluding the \$50.0 million from MOE, and not using TANF funds to support these individuals, makes them ineligible for inclusion in the work participation requirement. If Michigan were to determine that it would be better to meet MOE and not meet the work requirement or that Michigan will not meet the work requirement in FY 2009-10, the State could use these dollars in its MOE claim. If Michigan did not meet its work participation requirement, it could see a reduction in the subsequent block grant.

Conclusion

Uncertainty linked to the FY 2009-10 appropriation process has made predicting Michigan's MOE claim difficult. There is evidence suggesting that Michigan will struggle to meet the Federal requirement this fiscal year. To avoid possible Federal financial penalties, the Legislature will have to be aware of the Federal TANF MOE requirement and the implications of budget decisions upon the State's ability to meet this standard.