



THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

October 15, 2009

The Honorable John Kline
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Kline:

Thank you for your letter regarding news accounts alleging that the State of New York improperly used Temporary Assistance for Needy Families (TANF) funds. Specifically, you asked about New York's use of \$140 million in TANF emergency funds under the American Recovery and Reinvestment Act (ARRA).

ARRA created a new TANF emergency fund to make available additional federal funding to states that have experienced increased TANF costs for basic assistance, non-recurrent short-term benefits, and subsidized employment.

New York applied for funds from the TANF emergency fund based on an increase in non-recurrent short-term benefits. Under long-standing federal regulations, this category of benefits is designed to deal with a specific crisis situation or episode of need experienced by families. It is not intended to meet recurrent or ongoing needs, and it does not extend beyond four months. A state may choose to provide these benefits in cash or electronically, and can choose whether to impose restrictions on how the funds are spent. New York opted not to impose specific spending restrictions on how families spent the funds. Under the statute, New York's use of these funds was a lawful state choice, and is entirely consistent with ARRA and TANF legislation for this category of benefits.

The Department shares your commitment to ensuring that federal funds are spent appropriately. I have enclosed a fact sheet prepared by the Department which provides additional information about New York's use of TANF emergency funds, the legal authority authorizing such expenditures, state flexibility under TANF, and the way in which the federal government monitors state TANF spending.

I hope this information is helpful to you. Please contact me if you have any further thoughts or questions.

Sincerely,


Kathleen Sebelius

Enclosure

**New York's Use of TANF Emergency Funds
Under the American Recovery and Reinvestment Act (ARRA)**

- The State of New York applied for TANF emergency funds under ARRA based on an increase in non-recurrent short-term benefits. On July 16, 2009, the Administration for Children and Families (ACF) approved New York's request for ARRA TANF emergency funds in the amount of \$140 million. The funds were for a "back to school" bonus program for hundreds of thousands of children who receive TANF or food stamps (now known as SNAP benefits).
- Non-recurrent short-term benefits are designed to help recipients cope with a specific crisis situation or episode of need. This category of benefits cannot be provided for recurrent or ongoing needs and cannot be extended beyond four months.
- Non-recurrent short-term benefits may be provided in cash or electronically. States can choose whether to impose restrictions on how the funds are spent. New York opted not to impose specific spending restrictions on how families spent the funds.
- The legal authority for New York's use of TANF emergency funds is derived from section 402(a)(1)(A)(i) of the Social Security Act, regarding the conduct of a TANF program "designed to serve all political subdivisions of the state;" the federal regulations at 45 CFR 260.31(b)(1) that define non-recurrent short-term benefits; and section 2101(a)(1)(c)(3)(B) of ARRA, regarding the availability of grants for non-recurrent short-term benefits.
- Under TANF, states have a great degree of flexibility in designing their own state TANF program. States set eligibility criteria, benefit amounts, and sanction policies. Therefore, New York determines the eligibility criteria for non-recurrent short-term benefits and other TANF-funded programs. The method of disbursement of benefits and services is a state decision. The application materials from the state stipulated that the \$200 back to school allowance would be posted to the family's EBT account, and ACF determined that this was allowable.
- A state requests funds for an allowable use under the statute, and any state receiving TANF ARRA funds is required to ensure that the funds are used in compliance with the statute. Under TANF, the state is not required to inform the Department how recipients are notified of the funds, what assurances recipients are required to provide, or how recipients spend funds. Therefore, questions about these issues need to be directed to the State of New York.

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- The principal monitoring mechanism for the TANF program, as specified by statute, is the Single State Audit, which is conducted annually by an independent auditor. A state is at risk of federal penalty for misuse of federal TANF funds identified through the Single State Audit. ARRA-specific funding to states will be examined in future audits. Additionally, jurisdictions that receive ARRA funds will be required to report their expenditures on a quarterly basis.