

Last Updated: November 2021

Family Caps Repeal Talking Points - National/Adaptable to State Context

Introduction

All families deserve to live and flourish in caring communities, and all children deserve to have the support they need to thrive. Money matters in children’s development,¹ and economic security programs help to provide this key support by raising family income, reducing child poverty, and improving children’s outcomes even as they grow up and become adults.² When a family falls on hard times, they should have direct cash assistance to help afford rent, keep the lights on, and have the peace of mind that their baby will have a clean diaper when they wake in the middle of the night.

Temporary Assistance for Needy Families (TANF) is a cash assistance program for families living in poverty. Family caps vary slightly in application, but generally they function to deny additional TANF assistance to any children born to a parent receiving TANF assistance. Family caps are rooted in eugenic thinking and used as a social control tool that penalizes and discriminates against only a subset of families — families living in poverty — for having children.³ To move TANF in a more equitable direction, family caps must be repealed.

We have provided below a number of talking points — at national and state levels — that can meet the varying needs of the specific context of your state. Following this, in two appendices, is further background and context on TANF and family caps, and observations on what makes a successful campaign.

National Talking Points

POVERTY:

1. Doing right by our children and investing in their healthy development helps our economy, helps to reduce racial disparities, and helps to improve children’s outcomes across the entire span of their lives--from birth weight to salary as grown ups.
2. Too many families in the United States are living on incomes under the federal poverty level, experiencing economic deprivation, material hardship, and struggling to survive.⁴

¹ Greg Duncan and Suzanne Le Menestrel, *A Roadmap to Reducing Child Poverty*, pp. 106 -120. Washington, DC: National Academy Press (2017), available at <https://www.nap.edu/catalog/25246/a-roadmap-to-reducing-child-poverty>.

² Arloc Sherman and Tazra Mitchell, “Economic Security Programs Help Low-Income Children Succeed Over Long Term, Many Studies Find.” Center on Budget and Policy Priorities (2017). <https://www.cbpp.org/research/poverty-and-inequality/economic-security-programs-help-low-income-children-succeed-over>

³ *See id.*

⁴ Danilo Triso & Matt Saenz, *Deep Poverty Among Children Rose in TANF’s First Decade, Then Fell as Other Programs Strengthened*, Center on Budget and Policy Priorities (Feb. 27, 2020), <https://www.cbpp.org/research/poverty-and-inequality/deep-poverty-among-children-rose-in-tanfs-first-decade-then-fell-as>.

3. Children, particularly children of color and very young children, are the poorest Americans. More than 10 million children experienced poverty in 2019.⁵
4. A child's chance of being poor can also sometimes be exacerbated by where they live, with some states and regions having higher rates of poverty and inequality than others, as well as dramatic differences in services and support for families.⁶
5. Family caps are restrictions on TANF assistance that exacerbate child poverty, child hunger, and child health issues.⁷
6. Family caps punish children and single mothers the most. In a study from one state that repealed their family cap, research showed that family caps increased the poverty rate of children by 13.1%.⁸ Many studies have shown that children who grow up in poverty experience more challenges - mental and physical health, in particular - than those who do not.⁹
7. A California study showed that capped families had higher levels of housing and food insecurity, and mothers in these families reported being more likely to struggle to pay for transportation and utilities. These mothers also had difficulty paying for needed diapers and children's clothing.¹⁰
8. Diapers, which cost roughly \$80 per month per child, can consume a significant share of an already small TANF grant. Limiting additional resources to a family with a newborn only makes it harder for a family to keep their baby clean and healthy.

REPRODUCTIVE JUSTICE:

9. Opportunity should not be limited for the most vulnerable among us. What a family makes should not determine when and how it grows.
10. In the early 1990s policymakers' rhetoric supporting family caps centered on Black single mothers. Though all families who happen to have a new baby while on TANF are affected by family caps, Black families are affected disproportionately. In at least one state, data shows that Black women are more likely to be affected by restrictions that lower TANF rates than white women in part because they do not receive as much income assistance from friends and family outside their household.¹¹
11. Family caps are rooted in racist, gendered, and classist stereotypes around TANF recipients, in particular, the myth of the 'welfare queen.'¹² In fact, families receiving

⁵ Children's Defense Fund, *The State of America's Children 2021*, p. 14 (Mar. 2021), <https://www.childrensdefense.org/wp-content/uploads/2021/04/The-State-of-Americas-Children-2021.pdf>.

⁶ *Id.*

⁷ Center on Reproductive Rights & Justice, University of California Berkeley Law, *Bringing Families Out of 'Cap'tivity: the Path Toward Abolishing Welfare Family Caps*, p. 6 (Aug. 2016).

⁸ *Id.*

⁹ See generally, e.g., National Center for Biotechnology Information, *Consequences of Child Poverty - A Roadmap to Reducing Child Poverty*, Ch. 3 (2019).

¹⁰ *Id.* at 6.

¹¹ Alex Camardelle & Ray Khalfani, *Cash Matters: Reimagining Anti-Racist TANF Policies in Georgia*, Georgia Budget and Policy Institute, p. 13 (Sept. 2020), <https://gbpi.org/wp-content/uploads/2020/09/Cash-Matters-Reimagining-Anti-Racist-TANF-Policies-in-Georgia.pdf>.

¹² Center on Reproductive Rights & Justice, University of California Berkeley Law, *Bringing Families Out of 'Cap'tivity: the Path Toward Abolishing Welfare Family Caps*, p. 3-4 (Aug. 2016).

TANF assistance have the same number of children, on average, as families who do not receive TANF: two.¹³

12. Punishing families for having children while poor is a policy choice that goes against our values. It is reproductive coercion.
13. For a person who has a child as a result of a rape, family caps are both punitive and traumatizing - either the family cap applies, or, in some states, the family can receive the needed benefit for the new child only if the parent has law enforcement or medical "proof" of the sexual assault. Since the majority of sexual assault survivors do not seek legal or medical intervention, these exemptions do almost nothing to help families. Instead, these "exemptions" are further proof that the cap is actually designed to punish poor people for having children.
14. All children deserve the opportunity to live a safe and healthy life. Repealing family caps will help ensure that children are not penalized because they are born into a struggling family.
15. Right now, legislatures across the country are funneling TANF money that should go directly to families into agencies called crisis pregnancy centers, or CPCs. CPCs are anti-abortion centers that often use deception and misinformation about abortion in their quest to deter pregnant people from accessing abortion care. Though these agencies do sometimes give resources like diapers and clothing to pregnant people, they often force their clients to "earn" these resources by attending things like Bible and parenting classes. The vast control that state legislatures have over their TANF funds can and does mean they impose restrictions such as family caps and work requirements on TANF funds, as well as funneling them into anti-abortion programs like CPCs. The money spent on CPCs under TANF joins restrictions like family caps as yet another state attempt to coerce, shame, and punish pregnant people living on low incomes.

INEFFECTIVENESS OF THE CAP:

16. In part due to recognition of their ineffectiveness as well as their injustice, 10 of the original 24 states with family caps have since repealed them,¹⁴ including Virginia and Oklahoma [feel free to change to states who are close to you, in region or politics].
17. Prior to implementing family caps as a policy, state governments did not study the potential outcomes of the restriction. Instead, they insisted, citing now debunked theories, that refusing to provide additional assistance to families who have a child while on TANF would prevent people from having additional children.¹⁵ This simply isn't true. This is based on stereotypes and misconceptions; not science or lived experience.

State-specific Talking Points (adaptable - state advocates should feel free to use what serves them and leave the rest, or adapt what is here to suit the needs of their state, and NB that some

¹³ *Id.* at 3.

¹⁴ Ife Floyd, *States Should Follow New Jersey: Repeal Racist "Family Cap"*, Center on Budget and Policy Priorities (Oct. 14, 2020), <https://www.cbpp.org/blog/states-should-follow-new-jersey-repeal-racist-family-cap>

¹⁵ *Id.*

states may have a specific name to refer to their family cap, such as “maximum family cap”, so feel free to adjust the messaging to suit the needs of each state:

POVERTY:

1. In recent years, some states’ policymakers have taken action to make their TANF programs more accessible by removing some racist, ineffective, eligibility restrictions. Repealing family caps is a small step that [state] can take right now as part of a larger effort to combat poverty statewide.
2. [statistic] [state name] children are part of struggling families. Many of these children experience food insecurity and subpar health access. [state] is making it harder for families with very young children, who have many needs, to cover all of their expenses. punishing children by imposing a family cap.
3. The amount of assistance families receive under TANF has not kept up with inflation, and certainly has not accounted for the increase in struggling families due to the COVID-19 job crisis. [may want to insert individual state statistics here].
4. [state]’s assistance is [percentage] less than what the Department of Human Services says is needed to “maintain a decent and healthy standard of living.” This standard, updated each year, is currently [number] for a family of three. On top of already-low TANF monthly benefits, [state] forbids an increase in funds for a TANF family that has a new baby, penalizing both the new child, the parent(s), and any existing children by forcing the family to subsist on the same level of assistance even though it has grown.
5. One in [number] [state] children lives in poverty. By repealing the family cap rule and supporting families in times of need, we have an opportunity to start to change that for [thousands/hundreds] of [state] families.
6. The additional aid provided by [TANF state program name] to families in need can be the difference between kids going to school hungry, or learning on a full belly. The aid denied by the family cap could further support food security, diapers, and health care for [state]’s most vulnerable kids.

FAMILIES:

7. Repealing the family cap would only cost [state] [amount], which is only [percentage] of our budget. Though families would only see an increase of [amount] monthly dollars per child born while on TANF, an extra [amount] dollars can make a huge difference for families living in poverty. In fact, [amount] can buy [40 diapers/a week’s worth of produce/other necessities you price out in your state], helping to ensure families can make ends meet each month.
8. We can’t expect our students to do well in school if their stomachs are empty, and yet the family cap contributes to food insecurity and family financial instability. Families may use TANF as a way to fill gaps in their budget, including their food, diaper, clothing, and housing budget. Repeal the family cap now!
9. Stronger families mean a stronger [state]! Give our families the support they need: repeal the family cap!

10. We (I) know that all families deserve a fair chance to thrive. Repealing the family cap helps keep [state] families out of poverty.
11. Policies like the family cap undermine families.
12. Providing [state] families with the resources they need helps us build strong, healthier, and happier families.
13. Parents work hard to provide for their families but sometimes they need a little extra help. Programs like [state TANF program name] support families in times of need.
14. It is time to eliminate this harmful, wasteful policy and promote long-term stability and security for [state] families.
15. Programs like [state TANF program name] support families in times of need because all families deserve a fair chance to thrive.
16. Opportunity should not be limited for the most vulnerable among us and the family cap rule does just that by forcing low-income families to spread meager resources even thinner.

17. Doing right by our children and investing in their healthy development helps our economy, helps to reduce racial disparities, and helps to improve children's outcomes across the entire span of their lives--from birth weight to salary as grown ups.

ABOUT THE CAP:

18. Instead of spending their limited time determining whether children are subject to the family cap, caseworkers can redirect their efforts toward the core mission of [state's TANF name] program, which is to provide transitional support to low-income families.

REPRODUCTIVE JUSTICE:

19. Stereotypes have no place in [state] laws.
20. All parents, regardless of income, deserve dignity and the right to make decisions that are best and healthiest for themselves and their families without harmful government coercion.
21. When newborn children of families living in poverty are denied critical resources, parents may be forced to go without formula, diapers, or food for their children. No family, regardless of income, should be forced to choose between paying rent or putting food on the table.
22. Depending on the state: [State] has a history of forced and coerced sterilization. The family cap doubles down on [state]'s record of reproductive coercion, and it must be repealed.
23. Families should be able to make the best reproductive decisions for themselves, no matter their income.
24. Not only does the family cap rule deny vital resources to children but also punishes women with lower incomes for their reproductive choices by withholding support.
25. [if applicable:] [state] has a long history of supporting a woman's personal decisions regarding her reproductive choices. This should be true for all women, no matter their income.
26. A family's income should not determine when and how it grows.

HUMAN RIGHTS:

27. The rate of child poverty in the United States is shocking; as of 2019, nearly 11 million children in the U.S. lived in poverty - more than half of them in deep poverty, which means their families' income is half or less the official poverty rate, an official measure of poverty that chronically undercounts the number of families struggling to make ends meet.¹⁶ This means that millions of U.S. children live without enough basic needs. . The children experiencing poverty in the U.S. are disproportionately children of color.¹⁷
28. The failure of the U.S. to act to address child poverty violates human rights protected under both the U.S. Constitution and the International Covenant on Civil and Political Rights (a human rights treaty ratified and binding on the United States).
29. While TANF is an insufficient program to alleviate poverty, the families that must rely on it are harmed by family caps policies - research shows that families relying on TANF face deepening poverty when a family cap deprives their family of assistance appropriate to their family size.¹⁸
30. By deepening child poverty, family caps policies punish children and deprive them of their human right to have their basic needs met.
31. Family caps policies also punish parents for their reproductive decisions, violating their human and constitutional rights to basic standards of living, privacy, and dignity.

¹⁶ Children's Defense Fund, *The State of America's Children 2021* (March 28, 2021), <https://www.childrensdefense.org/state-of-americas-children/soac-2021-child-poverty/>.

¹⁷ Areeba Haider, *The Basic Facts About Children in Poverty*, Center for American Progress (Jan. 12, 2021), <https://www.americanprogress.org/issues/poverty/reports/2021/01/12/494506/basic-facts-children-poverty/>.

¹⁸ Signe-Mary McKernan & Caroline Ratcliffe, The Urban Institute, *The Effect of Specific Welfare Policies on Poverty*, p. 19 (April 2006), available at <http://urban.is/2klr2pb>.

APPENDIX A: *Background/context for audiences new to TANF:*

- All families deserve to live and flourish in caring communities, and all children deserve to have the support they need to thrive. Money matters in children’s development,¹⁹ and economic security programs help to provide this key support by raising family income, reducing child poverty, and improving children’s outcomes even as they grow up and become adults.²⁰ When a family falls on hard times, they should have direct cash assistance to help afford rent, keep the lights on, and have the peace of mind that their baby will have a clean diaper when she wakes in the middle of the night.
- Temporary Assistance for Needy Families (TANF) is a cash assistance program for families living in poverty. It also provides employment services and child care assistance as well as other supports to help families meet their basic needs and find a job, but with notable restrictions that make it difficult for low-income families to access help and support. TANF parents must meet strict work and other requirements or risk losing some or all of their benefits. At the federal level there is a 60-month time limit but states can and do set shorter limits.
- The federal government provides states with a fixed block grant that has not changed in nominal terms since 1996. States are required to spend their own resources on TANF as well; this is called the Maintenance of Effort. TANF resources are very flexible and states can decide to use them under broad purposes. This flexibility can allow states to allocate TANF dollars toward families with middle to upper incomes, rather than targeting the funds to families with the lowest incomes. The flexibility provided by the TANF block grant can undermine the purposes of the program to reduce poverty.
- Cash assistance should do more to support families in need, but the structure of the TANF program makes it unable to effectively respond to poverty and hardship.
 - Racist policies and ideas were embedded into the design of TANF. The program’s predecessors first excluded Black mothers and then issued policies seeking to control and punish Black and other marginalized mothers. Policies that demonized unwed mothers and coerced low-wage work targeted Black mothers. States also considered or passed legislation to control Black, brown and poor mothers’ reproduction. Elements of all these anti-Black policies were taken up by states under TANF.
 - TANF work and behavioral requirements do more to shame and kick families off of the program than to support families. For example, work sanctions have cut off more than 2 million families since the start of the program in 1996. Black and Latinx families are more likely to be cut off due to sanctions than white families. Family caps, which limits the increase in benefits after the birth of a child if the

¹⁹ Greg Duncan and Suzanne Le Menestrel, *A Roadmap to Reducing Child Poverty*, pp. 106 -120. Washington, DC: National Academy Press (2017), available at <https://www.nap.edu/catalog/25246/a-roadmap-to-reducing-child-poverty>.

²⁰ Arloc Sherman and Tazra Mitchell, “Economic Security Programs Help Low-Income Children Succeed Over Long Term, Many Studies Find.” Center on Budget and Policy Priorities (2017). <https://www.cbpp.org/research/poverty-and-inequality/economic-security-programs-help-low-income-children-succeed-over>

family was already on TANF, make it harder for a family with young children to meet their basic needs.

- None of the restrictions have been proven to be effective at reducing poverty. Instead, they subjected many recipients to government surveillance under the guise of behavior modification, conditioning many to believe they no longer deserve privacy once they start TANF.²¹
- TANF cash benefits are essential for a family with little or no income, but they are too low and most have lost purchasing power since 1996. In every state, TANF benefits are lower than the costs of rent for a modest two-bedroom apartment.²² Black children are more likely than white families to live in the states with the lowest benefits.
- TANF also reaches few families in poverty. In 1996, the last year of Aid to Families with Dependent Children, TANF predecessor, reached 68 families for every 100 families in poverty. Today, TANF reaches only 23 families for every 100 families in poverty. This TANF-to-poverty ratio (TPR) varies by state. In 14 states, the TPR is only 10.
- Over the past 25 years states have spent fewer and fewer federal and state TANF resources on basic assistance for families. Caseloads have declined dramatically, but much of those dollars have not been reinvested to bolster cash supports. In 2019, states spent 21 percent of their TANF resources on basic assistance compared to 70 percent in 1997, the first year of financial reporting. More and more TANF resources are going to programs that should be covered by other state resources like Pre-K and child welfare services.²³

Background/context for audiences new to family caps:

Family caps vary slightly in application, but generally they function to deny TANF assistance to any children born to a parent receiving TANF assistance. The theory behind family caps — that the state’s refusal to increase TANF benefits for a new child would change that parent’s decisions around having children — is a theory without evidence.²⁴ The increase in funding is too small to impact a family’s decision, but the additional resources do help families buy diapers, food, and other necessities. The presence of a family cap does not affect a parent’s decision to continue with a pregnancy or increase their family size. Family caps reduce the financial support provided to families with young children, and leave the child and any siblings with fewer resources and supports. When families have access to increased financial support, it improves childrens’ development and health outcomes. Family caps are rooted in eugenic thinking and

²¹ Dorothy Roberts, *Killing the Black Body* pp. 226-29 (2017).

²² Ali Safawi and Ife Floyd, “TANF Benefits Still Too Low to Help Families, Especially Black Families, Avoid Increased Hardship,” Center on Budget and Policy Priorities (2020).

²³ See To Lessen Hardship, States Should Invest More TANF Dollars in Basic Assistance for Families, pp. 17-18, Center for Budget and Policy Priorities (Jan. 2021), *available at* <https://www.cbpp.org/sites/default/files/atoms/files/1-5-17tanf.pdf>.

²⁴ Ife Floyd, *States Should Follow New Jersey: Repeal Racist “Family Cap”*, Center on Budget and Policy Priorities (Oct. 14, 2020), <https://www.cbpp.org/blog/states-should-follow-new-jersey-repeal-racist-family-cap>.

used as a social control tool that penalizes and discriminates against only a subset of families – families living in poverty — for having children.²⁵

²⁵ *See id.*

Appendix B: Observations from the Center for Reproductive Rights and Justice at Berkeley on what makes a successful campaign:

Observations

Below we highlight characteristics of several successful Family Cap repeal efforts that may heighten success.

Perseverance. Introducing bills several years in a row, may allow a repeal campaign to build enough visibility and momentum to garner adequate support from the public, media, and elected officials.

Research. Conducting multidisciplinary research to uncover critical data and produce scholarship that can be translated and disseminated to various audiences through advocacy materials, social media, and opinion pieces could bolster advocacy efforts in the states where Family Caps remain.

Analysis. Applying a critical lens to explain the racist, sexist, classist origins of Family Caps and using data to demonstrate their disparate impacts on immigrants and communities of color could help to reveal their inherent, incurable problems and persuade people of the need to eliminate them.

Coalitions. Working in coalition allows advocacy groups to spread costs, share resources, and demonstrate strength in both numbers and diversity of interests and identities.¹³⁷

Budget. Pursuing a strategy to repeal the Family Cap through the state's budget process in tandem with a legislative strategy may help to give cover to legislators from marginal districts who might otherwise feel obligated to vote no on a repeal. The appropriations process may facilitate repeal of Family Caps since it does not require an up-or-down vote from legislators on the specific policy. Additionally, given that the initial fiscal impact of a repeal can be high, pursuing a budget strategy can eliminate roadblocks in the legislative appropriations arena because there is a clear source for the funding.

Option. Rather than pushing for a full statewide repeal, allowing counties to decide whether to retain or repeal the Family Cap may prompt rejection sufficient to nullify, and eventually eliminate, the policy statewide.

Pace. Phasing out the Family Cap over time may mitigate the fiscal impact and make it more appealing to elected officials.¹³⁸

Convening. Bringing together economic and reproductive justice advocates from all 24 states that have had a Family Cap could facilitate exchange of information, ideas, strategies, and tactics to enhance collaboration and reinforce future repeal efforts.