

Legislative Analysis



SUSPICION-BASED DRUG TESTING FOR DHS BENEFIT APPLICANTS & RECIPIENTS

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House Bill 4118

Sponsor: Rep. Jeff Farrington

Committee: Families, Children, and Seniors

Complete to 3-12-13

A SUMMARY OF HOUSE BILL 4118 AS INTRODUCED 1-29-13

House Bill 4118 would require the Department of Human Services to establish a program of suspicion-based substance abuse screening and testing for family independence program applicants and recipients. It would amend the Social Welfare Act (MCL 400.1 et al.) by adding Section 57y.

(The bill would apply only to an applicant or recipient who is 18 years of age or older.)

The program would be implemented in stages, as follows:

****The department would be required to administer the screening and testing in three or more counties in the state no later than January 1, 2014. The department would decide which counties would begin the initial administration of the screening and testing.**

****Not later than January 1, 2015, the department would have to administer suspicion-based substance abuse screening and testing in half of the counties in the state.**

****Not later January 1, 2016, the department would administer screening and testing in all counties.**

Testing and Screening Procedures

Under the bill, the department would be required to administer the screening and testing either:

(1) By developing and administering a substance abuse survey that would be used upon initial application for program applicants and at annual redetermination for program recipients.

(2) By screening, upon initial application and at annual redetermination, program applicants and recipients for suspicion of substance abuse using an empirically validated substance abuse tool.

Results of Testing and Screening

If the results of the substance abuse screening give the department a reasonable suspicion to believe that the applicant or recipient has engaged in illegal use of a controlled

substance, he or she would be required to take a substance abuse test. An applicant or recipient who refuses to take the test after reasonable suspicion has been established would be ineligible for program assistance but could reapply after six months. The applicant or recipient would need to test negative for illegal use of a controlled substance to receive program assistance.

An applicant or recipient who tested positive for illegal use of a controlled substance could proceed in one of two ways:

(1) Remain ineligible for assistance, but with the ability to reapply after six months, subject to another required screening. The applicant or recipient would have to test negative for illegal use of a controlled substance in order to receive assistance.

(2) Alternatively, choose to enroll in a substance abuse treatment program. During participation in the program, the applicant or recipient would be ineligible to receive FIP assistance. After 90 days in the program, upon approval from the DHS, the applicant or recipient could retake the substance abuse test. An individual who tested negative and met all other eligibility requirements would be eligible to receive program assistance.

If, after 90 days, the applicant or recipient were not following the treatment plan, he or she could not retake the substance abuse test for six months. An applicant or recipient who, at any time after participating in the treatment program, tested positive for illegal use of a controlled substance would remain ineligible to receive assistance and could not reapply and retake a substance abuse test for 12 months.

An applicant or recipient who participated in a substance abuse program would have to sign a release authorizing the treatment counselor to communicate with the DHS regarding progress in the program.

If, upon reapplying for FIP assistance, an applicant or recipient who previously tested positive, tested positive again or refused to take a subsequent substance abuse test, the applicant or recipient would be ineligible for FIP benefits for 12 months.

Cost of Testing and Screening

If an applicant tests negative and meets all the other eligibility requirements for family independence program, the cost of administering the test would be deducted from the first program assistance payment. If a recipient tests negative for illegal use and meets all the other eligibility requirements for the program at an annual redetermination by the department, the cost of administering the test would be deducted from the first assistance payment after the annual determination.

Report to the Legislature

Before implementing the program to half of the state's counties, and annually after the program was fully implemented, the DHS would have to submit a report to the Legislature. The report would have to include at least all of the following: the number of individuals screened, the number of individuals screened for whom there was a reasonable suspicion of illegal use of a controlled substance, the number of individuals

who consented to submitting to a substance abuse test, the number of individual who refused to submit to a substance abuse test, the number of individuals who submitted to a substance abuse test who tested positive for illegal use of a controlled substance, the number of individuals who tested negative for illegal use of a controlled substance, the number of individuals who tested positive for illegal use of a controlled substance for a second or subsequent time, and the cost incurred by the DHS in administering the program.

Confidentiality

All information, interviews, reports, statements, memoranda, and substance abuse test results, written or otherwise, received by the DHS through a substance abuse screening or testing program would be confidential communications subject to the privacy protections under the federal Health Insurance Portability and Accountability Act (HIPAA). That information could not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with the bill or in determining of eligibility under the Social Welfare Act.

MCL 400.1 et al.

FISCAL IMPACT:

A fiscal analysis is in process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.