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BILL



ANALYSIS

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House Bill 4118 (Substitute H-2 as passed by the House)
Sponsor: Representative Jeff Farrington
House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services

Date Completed: 6-12-13

CONTENT

The bill would amend the Social Welfare Act to do the following:

- **Require the Department of Human Services (DHS) to establish and administer a program of suspicion-based substance abuse screening and testing for Family Independence Program (FIP) applicants and recipients.**
- **Require the DHS, subject to appropriation, to conduct a screening and testing pilot program in three counties, by April 1, 2014.**
- **Require the pilot program to conclude on March 31, 2015.**
- **Require the DHS to use an empirically validated screening tool.**
- **Require an applicant or recipient to take a substance abuse test if his or her screening results gave the DHS a reasonable suspicion to believe the person had illegally used a controlled substance.**
- **Require the DHS to pay the cost of testing if the results were negative.**
- **Require the DHS to refer an applicant or recipient to the regional substance abuse coordinating agencies, and continue to provide assistance, for the first time he or she tested positive.**
- **Provide that an applicant or recipient would be ineligible for assistance if he or she tested positive for a second or subsequent time; and require the person to test negative in order to receive assistance if he or she reapplied.**
- **Require the DHS, by April 30, 2015, to report to the Legislature regarding the screening and testing program.**

Screening & Testing Program

The bill would require the DHS to establish and administer a program of suspicion-based substance abuse screening and testing for FIP applicants and recipients. For purposes of the bill, an applicant or recipient would be an individual who was 18 or older. "Controlled substance" would refer to a drug, substance, or immediate precursor included in Schedules 1 to 5 of controlled substances in the Public Health Code.

Subject to State appropriation, by April 1, 2014, the DHS would have to administer a suspicion-based screening and testing pilot program for FIP applicants and recipients in three or more counties. The Department would have to determine which counties would begin the initial administration of the required screening and testing.

Upon initial application and at annual redetermination, the DHS would have to screen FIP applicants and recipients for suspicion of substance abuse using an empirically validated substance abuse screening tool.

Results of Screening & Testing

If the results of the screening gave the DHS a reasonable suspicion to believe that an applicant or recipient had engaged in the illegal use of a controlled substance, the applicant or recipient would be required to take a substance abuse test. If the person refused, he or she would be ineligible for FIP assistance, but could reapply after six months. If the applicant or recipient reapplied, he or she would have to test negative for illegal use of a controlled substance in order to receive FIP assistance.

If an applicant or recipient tested negative for illegal use of a controlled substance, the DHS would have to pay the cost of administering the substance abuse test.

If an applicant or recipient tested positive, and it were the first time that he or she tested positive under the pilot program, the DHS would have to refer the individual to the regional substance abuse coordinating agencies and, if he or she were otherwise eligible, provide or continue to provide FIP assistance. For an applicant, the cost of administering the test would have to be deducted from his or her first FIP assistance payment. For a recipient, the cost would have to be deducted from his or her first payment after the redetermination. If the applicant or recipient failed to participate in treatment offered by the regional substance abuse coordinating agencies, or failed to submit to periodic substance abuse testing required by the agencies, the DHS would have to terminate his or her FIP assistance.

If an applicant or recipient tested positive for a second or subsequent time as part of the pilot program, he or she would be ineligible for FIP assistance. If the person reapplied, he or she would have to test negative in order to receive assistance. The DHS could provide a referral to the applicant or recipient to the regional substance abuse coordinating agencies for substance abuse treatment.

Report to the Legislature

By April 30, 2015, 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 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.
- The cost incurred by the DHS in administering the program.

Proposed MCL 400.57y

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would establish a substance abuse screening and testing pilot program for FIP assistance, which would be phased in over a period of three years, beginning in FY 2013-14. The annual net costs/savings of implementing a statewide program would depend on several unknown factors.

The DHS has indicated that the initial costs to establish a pilot program would total \$250,000. Based on the experiences of other states in setting up similar programs, the costs to implement a drug testing program statewide could range between \$700,000 and

\$3.4 million Gross. This estimate includes an empirically valid screening tool and the costs of the drug tests.

Caseload savings could be possible, but would depend on the implementation of the empirically valid testing tool, as well as the percent of recipients who test positive for drugs and successfully complete a substance abuse treatment program. Savings due to caseload reductions could reach \$3.7 million Gross on annual basis.

Estimated Percent of Cash Assistance Recipients Who Use Illegal Drugs

The percentage of welfare recipients who use illegal drugs is similar to – only slightly higher than – to the percentage of drug users among the general population. In 2011, the U.S. Department of Health and Human Services (HHS) issued a report on drug use among welfare recipients that consolidated data from several studies. According to HHS, most of these studies found that between 5.0% and 10.0% of welfare recipients abuse illegal drugs.¹ Similarly, in 1999, a Michigan pilot program found that 10.3% of FIP recipients tested positive for illicit drug use.² Florida's 1999, suspicion-based pilot program found that a total of 5.1% of welfare applicants and recipients tested positive for illegal drug use over an 18-month period.³ If a program in Michigan followed the model of the pilot program that was introduced in Florida in 1999, it is possible that as many as 5.0% of the total FIP caseload would be identified as drug users.⁴

Potential Savings Calculations

There are several possible scenarios in terms of projecting ongoing, annual savings estimates for a statewide program. The State could realize approximately \$3.7 million Gross/\$743,800 GF/GP in caseload savings. The FIP program is funded with approximately 20.0% GF/GP and 80.0% Federal funding.

Michigan's projected monthly FIP caseload in FY 2013-14 is 44,400 and the projected average monthly payment is \$394.81. The average number of child-only FIP cases from January 2012 to June 2012 was 13,000, making the total projected number of cases that could be affected by a drug testing policy approximately 31,400. For every case that was removed from assistance for three months, the State would save approximately \$1,200. For every case removed from assistance for 12 months, the State would save approximately \$4,700.

If the DHS were able to identify 5.0% of FIP clients as drug users, this group would be referred to substance abuse treatment and would be able to remain on assistance assuming that they otherwise maintained their eligibility requirements. The National Institute of Health estimates that between 40.0% and 60.0% of those treated for illegal drug use will relapse.⁵ If 2.5% of those who are referred to treatment again test positive, the State would realize approximately \$3.7 million gross (\$743,800 GF/GP) in caseload savings for 12 months. In a scenario in which costs reached the higher end of the scale at \$3.4 million,

¹ Office of the Assistant Secretary for Planning (ASPE), U.S. Department of Human Services, "Drug Testing Welfare Recipients: Recent Proposals and Continuing Controversies," October 2011.

² Information provided by the Michigan Department of Human Services.

³ Crew, Robert E. PhD, and Davis, Belinda Creel, PhD. Assessing the Effects of Substance Abuse Among Applicants for TANF Benefits: The Outcome of a Demonstration Project in Florida. *Journal of Health & Social Policy*, Vol. 17(1) 2003.

⁴ When Florida implemented a statewide suspicionless drug testing program in 2011, just 2.6% of applicants were found to be using illegal drugs. Neither Florida's 2011 program, nor Missouri's model remove children from assistance if the adult head of household tested positive for drugs. These programs, therefore, did not result in caseload savings.

⁵ National Institute of Health, "Relapse Rates are Similar for Drug Addiction and Other Chronic Illnesses," 2008. Graph retrieved on 7/16/12: <http://www.drugabuse.gov/publications/addiction-science/relapse/relapse-rates-drug-addiction-are-similar-to-those-other-well-characterized-chronic-ill>.

the State would have to remove approximately 2.5% of the current FIP caseload and new applicants from assistance for 12 months, in order essentially to break even.

Cost Calculations

The cost estimate of \$700,000 to \$3.4 million is based on information from the 1999 Florida pilot program and the 2012 Missouri program.

The 1999 pilot program in Florida estimated a cost of \$30 for each drug test and a cost of \$90 per test once staff costs and other program costs were added.⁶ These costs include both the drug test itself and administrative overhead, including the use of SASSI, an empirically validated screening tool. The baseline administrative costs are estimated at approximately \$60 per screened applicant. Treatment costs were not included. Adjusted for inflation, the total costs would increase to \$120, with \$40 going toward the drug test itself. If all applicants/recipients of FIP assistance received the formal, empirically validated screening tool, the baseline administrative costs of \$80 would be applied to each case (approximately 31,400 in FY 2013-14). The total baseline costs – excluding the costs of the drug test itself – would be approximately \$2.5 million.

The State of Missouri also provides an example for cost comparison. Missouri's suspicion-based program was projected to cost up to \$2.6 million in FY 2012-13. The estimate includes the costs of increased staffing needs, administrative hearings, drug treatment, changes to electronic applications, and hiring contractors to administer the drug tests.⁷ Of this total, approximately \$1.9 million was set aside for substance abuse treatment and \$700,000 for administrative costs.

The costs to the State of Michigan to cover false positive drug tests would total approximately \$213,500 Gross. In the Florida pilot program, the screening tool referred 22.4% of the welfare caseload to take a drug test. Less than a quarter of those who were referred by the screening tool actually tested positive for drugs (or 5.1% of the total caseload and new applicants).⁸ If this 17% difference is applied to the adult FIP caseload, approximately 5,300 cases would be referred to take a test and would test negative.

Most FIP recipients would be eligible for drug treatment services through Medicaid. A small percentage of FIP recipients might not have Medicaid coverage, however. Outpatient and residential treatment costs range between approximately \$700 and \$2,400 per person.⁹ The Department of Community Health currently prioritizes treatment for welfare recipients. It is not known whether the referral of FIP clients would result in increased costs and caseloads in the substance abuse regional centers, or whether an influx of FIP recipients merely would reduce the number of treatment slots that are available to other clients.

Additional Unknown Factors

Potential annual savings and additional costs would be based on several unknown factors, some of which would be determined by departmental policy and others of which would be based on the actions of FIP clients. Some of the key undetermined factors as follows. (1) Implementation of the screening tool and drug test. Factors include the accuracy of the tool, whether additional staff would have to be hired to administer the tool, and whether the drug tests were timed correctly so that they could detect an illegal substance. (2) The number of people who refuse to take a test and become ineligible for FIP. The results of Florida's 1999 pilot project showed that 21.0% of applicants and recipients refused to take

⁶ U.S. Department of Human Services, October 2011.

⁷ U.S. Department of Human Services, October 2011.

⁸ Crew and Davis, 2003.

⁹ FY 2010-11 Substance Abuse Annual Report, provided by the Department of Community Health.

the screening and therefore were not eligible for assistance.¹⁰ Arizona has also found that a significant number of applicants declined participating in the initial screening tool. If these precedents are a good indicator of what could be expected to take place in Michigan, the FIP caseload would be reduced significantly on the front end.

The bill would have no fiscal impact on local units of government.

Fiscal Analyst: Frances Carley

¹⁰ Crew and Davis, 2003.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.