

Legislative Analysis



SUSPICION-BASED DRUG TESTING PILOT PROGRAM FOR DHS BENEFIT APPLICANTS & RECIPIENTS

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House Bill 4118 (Substitute H-2)

Sponsor: Rep. Jeff Farrington

Committee: Families, Children, and Seniors

Complete to 4-22-13

A SUMMARY OF HOUSE BILL 4118 AS REPORTED FROM COMMITTEE

The bill would amend the Social Welfare Act to require the Department of Human Services 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 only apply to an applicant or recipient who is 18 years of age or older.)

The program would be a pilot program to be implemented as follows:

The department would be required to administer the screening and testing in three or more counties in the state no later than April 1, 2014. The department would decide which three counties would begin the initial administration of the screening and testing. The pilot program would conclude on March 31, 2015.

Testing and Screening Procedures

Under the bill, at the initial application and at redetermination, the department would screen applicants and recipients for suspicion of substance abuse using an empirically validated substance abuse screening tool.

Results of Testing and Screening

If the result of the screening gives the department a reasonable suspicion to believe 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.

Refusal to Test

An applicant or recipient who refuses to take a test would be ineligible for program assistance, but could reapply after six months. An applicant or recipient who reapplied for program assistance would need to test negative for illegal use of a controlled substance to receive program assistance.

Positive Test Result

The department would be required to refer an applicant or recipient tests who tested positive for the first time under the pilot program to the regional substance abuse

coordination agency and, if the applicant or recipient is otherwise eligible, provide program assistance.

If the applicant or recipient tests positive for a second or subsequent time as part of the pilot program, he or she ineligible for program assistance. An applicant or recipient who reapplies for assistance would need to test negative for illegal use of a controlled substance in order to receive program assistance. The department could provide a referral to the regional substance abuse coordinating agency for substance.

Payment for Testing

For an applicant testing positive, the cost of administering the substance abuse test would be deducted from the first program assistance payment. For a recipient testing positive, the cost of administering the test would be deducted from the first program assistance payment after redetermination.

Consequences for Refusal to Test

If the applicant or recipient fails to participate in treatment offered or fails to submit to periodic substance abuse testing required by the substance abuse coordination agencies, the department would terminate program assistance.

Report to the Legislature

The department would have to submit a report to the legislature, not later than April 30, 2015, 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.

FISCAL IMPACT:

House Bill 4118 would create a one year pilot program. The gross fiscal impact of the pilot program would be a state cost from \$400,000 to \$500,000. The fiscal impact assumes the number of FIP cases that include an adult would be reduced by 1.8% to 3.5%, while the number of persons enrolled in a substance abuse treatment program provided through the Department of Community Health would increase by the same amount.

The Gerald R. Ford School of Public Policy at the University of Michigan conducted the Women's Employment Study (WES), which was a longitudinal survey of 750 Temporary Assistance for Needy Families (TANF) recipients in Michigan, from 1997 to 2003. WES examined the types of barriers to obtaining and retaining employment that TANF

recipients face¹. One of the barriers surveyed was drug use, dependence, and abuse. WES, along with national surveys of TANF recipients, report 3.4% - 3.6% of TANF recipients have a drug dependence and/or abuse, with marijuana being the most prevalent drug².

WES also reported that 16% - 21% of TANF recipients used drugs during the past 12 months³; however, it cannot be assumed that the substance abuse test will be positive (or that the substance abuse screening tool would identify the person has having a drug dependence and/or abuse). Urine drug tests can generally detect marijuana use within the past week and hard drug use within the past 2 days. So, many of the 16% - 21% of TANF recipients that have used drugs during the past 12 months would test negative, and some of the 3.4% - 3.6% of TANF recipients that have a drug dependence and/or abuse would also test negative.

From these data and factors, HFA assumes 10% of adults will be tested for substance abuse and from 1.8% to 3.5% of adults will test positive. If the adult tests positive, he or she would be referred to the regional substance abuse coordinating agency, increasing substance abuse program costs by an average of \$1,270 per case.

House Bill 4118 could increase the number of administrative hearings from persons appealing a false positive drug test, and could also increase training costs. These costs should be minimal.

POSITIONS:

Department of Human Services supports the bill. (4-17-13)

ACLU of Michigan opposes the bill. (4-17-13)

National Association of Social Workers-MI opposes the bill. (4-17-13)

A representative from Taxpayers United testified in opposition to the bill because it does not make an exception for medical marihuana. (4-17-13)

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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.

¹ <http://www.fordschool.umich.edu/research/poverty/wes/>

² <http://www.fordschool.umich.edu/research/poverty/pdf/WES-SubstanceUse.pdf>

³ <http://www.fordschool.umich.edu/research/poverty/pdf/drugtest.pdf>