

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

Senate Bill 21 (Senator Colburn)
 Finance

Family Investment Program - Eligibility - Drug Testing

This bill requires individuals applying for or receiving temporary cash assistance (TCA) benefits under the Family Investment Program (FIP) to submit to substance abuse testing for controlled dangerous substances under specified circumstances. The bill establishes reporting and consultation requirements for the Department of Human Resources (DHR) in order to implement the bill’s provisions.

The provisions relating to substance abuse testing take effect July 1, 2015.

Fiscal Summary

State Effect: General and federal fund expenditures increase by a total of \$590,100 in FY 2015 only, for DHR to make necessary computer programming changes and consulting costs. General and federal fund expenditures increase by approximately \$220,000 annually beginning in FY 2016, which accounts for the effective date of July 1, 2015, for provisions relating to additional substance abuse testing, for DHR to hire additional staff to monitor compliance and further implement the testing provisions. Future year expenditures reflect inflation. These additional expenditures may be partially offset by savings due to the disqualification or reduced eligibility for benefits for some applicants or recipients.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	295,000	110,500	109,300	112,600	116,000
FF Expenditure	295,000	110,500	109,300	112,600	116,000
Net Effect	(\$590,100)	(\$221,100)	(\$218,600)	(\$225,200)	(\$232,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential minimal for laboratories that qualify as small businesses and provide testing services.

Analysis

Bill Summary:

Provisions effective July 1, 2015

The bill conditions eligibility for TCA benefits on individuals, at the time of the application for assistance, (1) submitting to substance abuse screening and testing and (2) complying with statutory provisions relating to screening, testing, and treatment. Controlled dangerous substance screening or testing may not be required for any individual (1) on a waiting list or receiving long-term care services and supports through a home- or community-based services program or (2) residing in a facility such as a nursing home, an assisted living program, or a group home.

The bill alters procedures to be followed when a screening by an addictions specialist reveals that an applicant or recipient has a substance abuse problem. The bill repeals provisions requiring the addictions specialist to conduct, or refer for, an assessment of the applicant's or recipient's substance abuse problem, and instead requires that the addictions specialist test the applicant or recipient for a controlled dangerous substance using a test selected by DHR. If the applicant or recipient tests positive, the addictions specialist must determine placement for treatment and related support services. The bill makes conforming changes by repealing references to substance abuse "assessment" throughout the applicable statutory provisions to reflect the bill's requirement that individuals who screen positive for having a substance abuse problem are to be drug tested.

The bill prohibits individuals from receiving more than six months of TCA while in treatment. The bill establishes that an adult or minor parent applicant or recipient is not in compliance with FIP requirements if the case manager receives notice from an addictions specialist that the applicant or recipient fails to complete the substance abuse testing or tests positive for a controlled dangerous substance on completion of the treatment program.

Upon receiving notice of noncompliance, the local department of social services must send a denial notice stating the specific reason why the applicant is not eligible for FIP and the length of time the applicant is disqualified from reapplying for TCA. Upon notice that an adult or minor parent recipient is not in compliance, the local department must send a notice stating, if applicable, the length of time the recipient is disqualified from reapplying for TCA.

At the conclusion of treatment, DHR must test an individual for controlled dangerous substances. An applicant or a recipient is disqualified from FIP for six months if (1) the individual refuses to enter substance abuse treatment or fails to complete treatment or (2) the individual tests positive for a controlled dangerous substance at the conclusion of treatment. An applicant or a recipient is disqualified from FIP for one year if the individual tests positive for a controlled dangerous substance following a six-month disqualification period.

The applicant or recipient may inform the person administering a test of any prescription or over-the-counter medication the individual is taking. A drug for which an applicant or recipient has a prescription may not be the basis for the denial of TCA.

Provisions effective October 1, 2014

DHR, in consultation with substance abuse experts, must develop a uniform controlled dangerous substance screening and testing process to be used by an addictions specialist that must include a screening tool such as the Substance Abuse Subtle Screening Inventory and a urine-based, five-panel drug test to be used if an applicant or a recipient does not pass screening.

By December 15, 2014, DHR must report to the Senate Finance Committee and the House Appropriations Committee on its plan for implementation and administration of the controlled dangerous substance screening and testing, including the screening tool selected by DHR and DHR's plan for funding screening and testing with existing TCA funding or other available funding.

Current Law: Addictions specialists are located on site at local departments of social services. Addictions specialists must screen applicants or recipients of TCA to expose potential barriers that the applicant or recipient may have in obtaining employment, such as a substance abuse problem. If the screening reveals that an applicant or recipient has a substance abuse problem, the addictions specialist must conduct, or refer for, an assessment of the substance abuse problem and, if appropriate, determine placement for treatment and related support services. An individual who complies with treatment requirements continues to be eligible for assistance and may be exempt from other work activity requirements.

If an *applicant* does not comply with requirements, the local department of social services must send notice that the application will be denied if requirements are not met within 30 days. If a *recipient* does not comply with requirements, the local department must send notice that benefits will be redirected to a third-party payee or compliant adult recipient if requirements are not met within 30 days. The local department of social services must reinstate benefits if the applicant or recipient receives the required screening and assessment and appropriate substance abuse treatment is not available.

Applicants or recipients convicted of a felony involving possession, use, or distribution of a controlled dangerous substance are also subject to drug testing.

Background: Chapter 671 of 2000 established the State’s requirement to have an addictions specialist on site at every local department of social services to streamline the system of substance abuse screening, assessment, and referral for treatment. According to the National Conference of State Legislatures, states have been proposing drug testing of applicants and recipients of public welfare benefits since federal welfare reform in 1996. For example, at least 29 states proposed legislation requiring some form of drug testing or screening for public assistance applicants and/or recipients in 2013. Some versions of proposed legislation would apply to all individuals who apply for or receive benefits, while others would require testing or screening only when there is reason to believe that an individual is engaging in illegal drug activity or has a substance use disorder.

State Expenditures: General and federal fund expenditures increase by \$590,050 in fiscal 2015, which accounts for the provisions that take effect October 1, 2014. This estimate reflects the cost of computer modifications that are necessary to accurately track compliance with the new testing requirements and to properly identify individuals who will be subject to periods of disqualification. It is assumed that these costs are incurred in fiscal 2015 so that the necessary modifications are complete when the provisions relating to substance abuse testing take effect in fiscal 2016. It also includes costs for DHR to consult with substance abuse experts, as required by the bill.

General and federal fund expenditures increase by \$221,069 in fiscal 2016, which reflects the effective date of July 1, 2015, for most of the bill’s provisions relating to substance abuse testing. This estimate reflects the cost of hiring two case managers to monitor applications and ongoing eligibility of applicants while undergoing drug treatment. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. This estimate also assumes that DHR expands its existing contract with the Alcohol and Drug Abuse Administration within the Department of Health and Mental Hygiene (DHMH) for managing referrals, responses, and testing. Based on a conservative estimate of additional staffing needs for the contract expansion, as discussed in detail below, expenditures increase by \$45,868 in fiscal 2016, which reflects the equivalent of one additional part-time staff.

Positions	2
Salaries and Fringe Benefits	\$121,369
Contract for Addictions Specialists	45,868
Testing Kits	43,920
Other Operating Expenses	<u>9,912</u>
Total FY 2016 State Expenditures	\$221,069

It is assumed that the general fund bears 50% of these costs and that federal funds pay for 50% of these costs.

Future year expenditures reflect annual increases in salaries and employee turnover as well as annual increases in ongoing operating expenses.

DHR provided an estimate of expenditures related to expanding its contract with DHMH based only on additional testing for individuals post-treatment. DHR's estimate accounts for approximately 2,196 individuals needing post-treatment drug tests, which is based on the population of TCA recipients in treatment during fiscal 2013. DHR estimates that this testing will necessitate the equivalent of one additional part-time staff person, based on the existing contract with DHMH. DHR's estimate for testing kits was also based on testing an additional 2,196 individuals per year post-treatment, at a cost of approximately \$20 per test. Neither the estimate for the expanded contract nor the estimate for testing kits accounted for testing that would be mandated once an individual's screening revealed a potential drug problem. Based on information provided by DHR and *for illustrative purposes only*, for every additional 100 individuals tested, expenditures for drug testing kits increase by \$2,000. For every additional staff person required under the contract, expenditures increase by approximately \$61,900.

Also not included in the above estimate is any *additional* contract cost for DHMH that goes beyond the amount estimated above. DHMH has previously advised that it absorbs approximately \$300,000 per year in personnel expenses for its existing contract with DHR. If DHR expands its contract with DHMH to handle the additional workload necessitated under the bill, it is assumed that expenditures related to the unreimbursed support increase minimally as well.

Also not included in the above estimate is any potential *reduction* in expenditures if recipients test positive for drugs and are, therefore, ineligible to receive benefits beyond specified time periods while they are in treatment or are disqualified for a period of time. The testing requirements may also deter individuals who would otherwise apply for benefits, thereby resulting in a potential further expenditure reduction. An estimate of any potential savings cannot be reliably estimated. The Department of Legislative Services advises that the average monthly TCA benefit for fiscal 2015 is projected at \$184, and the Governor's proposed fiscal 2015 budget includes \$133.4 million for TCA funding (\$29.8 million general funds/\$93.6 million federal funds/\$10 million special funds). *For illustrative purposes only*, for every 1% reduction in TCA payments, expenditures decrease by \$1.3 million.

Finally, this analysis does not include any additional State costs for treatment. It is assumed that the publicly funded treatment program does not expand as a result of this bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Department of Health and Mental Hygiene, Department of Legislative Services

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