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**FISCAL IMPACT STATEMENT**

**LS 7391**

**BILL NUMBER:** HB 1717

**NOTE PREPARED:** Jan 12, 2009

**BILL AMENDED:**

**SUBJECT:** Drug Testing as a Condition of Benefits.

**FIRST AUTHOR:** Rep. Noe

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**     **GENERAL**  
                              **DEDICATED**  
                              **FEDERAL**

**IMPACT:**

**Summary of Legislation:** *Drug Testing of Public Benefit Recipients:* This bill requires the Division of Family Resources to develop a drug abuse testing program for applicants for and recipients of assistance under the federal Temporary Assistance for Needy Families (TANF) program and the federal Food Stamp Program. The bill provides that an individual who tests positive for a controlled substance or a legend drug without a prescription is ineligible to receive TANF assistance and Food Stamp assistance unless the individual attends a drug treatment program. It also requires an individual who: (1) tests positive and attends a drug treatment program to be tested a second time within two months; (2) tests positive a second time to be regularly tested; and (3) tests positive a third time to be ineligible for TANF and Food Stamp assistance.

*Legal Disclosure:* The bill provides that the results of a drug test may not be disclosed in any legal proceedings or elsewhere unless the individual has tested positive a third time for drugs.

*Medicaid:* This bill also provides that an individual who is ineligible for TANF assistance and Food Stamp assistance as the result of testing positive for the presence of illegal drugs is ineligible for assistance under the Medicaid program. The bill requires the Office of Medicaid Policy and Planning to apply for an amendment to the state Medicaid plan to limit Medicaid eligibility for individuals who are ineligible under the TANF program and Food Stamp program as the result of testing positive for the presence of illegal drugs.

**Effective Date:** Upon passage; July 1, 2009.

**Explanation of State Expenditures:** *Summary:* The total estimated cost for the initial drug testing of TANF and Food Stamp recipients as provided in the legislation is \$145,000 (drug testing costs only, not including

administration costs and costs of additional testing for individuals that test positive and subsequently attend drug treatment programs). The estimated reduction in state expenditures for TANF is between \$31,000 and \$48,000. [Note: The estimate for Medicaid expenditures is reflective of 2007 estimates and will be updated as the Family and Social Services Agency provides the additional data.] The total reduction in state expenditures for Medicaid is estimated to be \$234,000, assuming federal approval. These figures are indicative of the reduction in state expenditures for all individuals that test positive for drugs during the period of ineligibility.

### Background Information-

*Drug Testing Requirement:* Under the bill, every individual who is at least 18 years of age and (1) receives Food Stamps or TANF or (2) resides with someone that receives these benefits, will be subjected to a random drug abuse testing program. [Note: The population of adults that receive program benefits is known, but the population of individuals at least 18 years of age and residing with adult recipients is indeterminable. The population of adult recipients was used to calculate the cost of drug testing in this fiscal note.] Participation in the drug-testing program is a requirement to receive public assistance under these programs. The bill also requires applicants that test positive for a controlled substance, legend drug, or a substance for which the individual is not prescribed are submitted to a verification test to rule out a false positive. Only if the verification test confirms the individual is positive for an illegal substance are they considered ineligible for the TANF and Food Stamp programs.

Expenses for drug testing will vary depending on the methods the Division uses to randomly select individuals from the population for testing. The costs of the drug testing will vary depending on how many individuals are selected for testing and how many test positive for illegal drugs that would require a verification test to confirm an initial positive. The cost of the drug tests will also vary depending on how many panels the tests possess. If a test contains more panels, then the drug test is checking for the presence of more drugs and therefore the test increases in price.

The Indiana Department of Correction reports that a 5-panel drug test costs \$6.50 per test and a gas chromatograph and mass spectrometer (GC-MS) confirmation test (to verify initial drug tests) costs \$17 per test. [Note: The legislation is silent on the authority of the Division to contract out drug-testing requirements.] If the Division is able to contract out the drug-testing requirements, this will have less of an effect on staff workload.

Assuming that the program will test 5% of the total adult benefit-receiving population (312,634) annually, roughly 15,632 individuals would be subjected to a urinalysis drug test at a cost of \$6.50 per test. This will result in state expenditures of approximately \$102,000 for the first test. An estimated 2,533 will test positive for drugs on their initial drug test and require a verification drug test at a cost of \$17 per test. This will result in state expenditures of \$43,000 for a second test. An estimated 687 individuals will test positive in both their initial drug test and verification drug test, disqualifying them for public benefits under the legislation; both Food Stamps and TANF. The total cost for drug testing would be \$145,000.

The bill also incorporates drug testing requirements for those (1) who attend drug treatment programs, (2) test positive for a second time, and (3) test positive a third time. Drug testing costs for these individuals are indeterminable because it is not known how many individuals that test positive on both initial tests will attend drug treatment programs as a condition of continued receipt of benefits. However, each individual is subject to a urinalysis drug test at a cost of \$6.50 per initial test and \$17 per confirmation test.

Removing these individuals may not reduce expenditures on these programs, but rather free up resources for new individuals currently not receiving benefits. If individuals are removed from the Food Stamp program, this will not have any effect on state expenditures as the federal government administers 100% of the benefits in this program. Additionally, those individuals that test positive for illegal drugs are not permanently or indefinitely removed from benefit payments, but are ineligible for benefits for either six months or until the individual completes a drug abuse assessment or treatment plan. After the time of ineligibility, the individual must pass a drug test to be considered eligible for benefits again.

The effect this bill will have on state expenditures for TANF (related to drug offenses) ultimately depends on (1) how many individuals agree to participate in random drug testing, (2) how many individuals test positive for drugs under both drug tests, (3) if these resources will be reallocated to individuals formerly not served by the programs, (4) the random drug testing policy selected by the Division, (5) the costs of the drug tests selected by the Division, and (6) the benefits each family receives contingent on family size.

Under the bill, those 687 individuals that can be expected to test positive for drugs on both tests are ineligible for benefits provided they do not attend a drug treatment program. The state provides no money to Food Stamp benefits; however, the state may see a reduction in the expenditures for TANF. It is estimated that 89 TANF recipients of the 687 who test positive for drugs on both tests might be considered ineligible for benefits. There could be a reduction in state expenditures for TANF benefits assuming (1) these individuals do not attend a drug treatment program, (2) a 6-month removal from benefit payments, and (3) no substitution into the program.

The amount of cash assistance associated with one member of the TANF assistance unit can be \$58.50 or \$90 monthly, depending on family size. (Dependent children would not necessarily lose benefits - only the adult's benefit would be affected.) Additionally, it is not known how many families have adults that have exceeded the maximum benefit time period in the TANF program and dependants are the only beneficiaries in the house. The maximum reduction in state payments for TANF benefits is estimated to be between \$31,000 and \$48,000. Any reduction in benefits paid to individuals that test positive for drugs, do not attend drug treatment programs, and are removed from eligibility can be diverted to new individuals that currently do not receive benefits.

Additionally, the legislation allows an individual to test positive on drug tests two times and still receive benefits, provided they participate in a drug treatment program. However, the bill also provides that individuals that test positive for drugs three times are ineligible to receive assistance under TANF indefinitely. The number of individuals that would test positive three times having tested positive twice before and participated in a drug treatment program are indeterminable. Any associated reduction in expenditures for benefits is also indeterminable.

*Medicaid Provisions:* The bill requires that the Office of Medicaid Policy and Planning (OMPP) petition the U.S. Department of Health and Human Services (DHHS) for approval to amend the State Medicaid Plan to limit the eligibility of those that test positive for illegal drugs. Requiring OMPP to submit a petition to DHHS would increase the workload of the staff.

[Note: These numbers are reflective of 2007 estimates and will be updated as the Family and Social Services Agency provides additional data.] FSSA reports that the 2007 average monthly enrollment in Medicaid was 879,945, of which 361,087 adults receiving Medicaid benefits were also estimated to receive either TANF benefits, Food Stamp benefits, or both. Of the 687 individuals estimated to test positive for drugs, 264 of them were also estimated to be enrolled in Medicaid. If these individuals become ineligible for Medicaid

benefits under the legislation, this will decrease state expenditures (after federal reimbursement) by an estimated \$234,000. This assumes federal approval of the program.

In FY 2008, the Division of Family Resources reverted \$1.3 M in administrative expenses to the state General Fund, while the Family and Social Services Administration reverted \$32.3 M to the General Fund. Of that \$32.2 M amount, \$16.1 M came from Medicaid Obligations and \$1.7 M came from the Indiana Manpower and Comprehensive Training (IMPACT) Program.

### **Explanation of State Revenues:**

#### **Background on Programs-**

*TANF Program:* TANF assistance is shared between state and federal governments. However, the federal share is provided through a capped block grant allocation with a state maintenance-of-effort (MOE) requirement. TANF block grant allocations are determined on a formula basis with increased flexibility for their use by the states over what was permitted under the prior Aid to Families with Dependent Children (AFDC) Program. The state contributes roughly 1/3 of the benefits in the TANF program.

*Medicaid Program:* Medicaid is an entitlement program offered jointly by the federal and state government. Individuals that meet the established criteria are entitled to benefits in the program. Federal funds for the Medicaid program are not equally distributed between states. Each state is responsible for budgeting its funds to provide Medicaid financing, and the federal government uses a matching formula in its provision of resources to a state's Medicaid program. A reduction in the number of individuals eligible for Medicaid under this bill may have the potential to decrease matching funds from the federal government or free resources for new individuals to be served in the state Medicaid program.

*Food Stamp Program:* The federal government funds 100% of all food stamp benefits and 50% of the administrative costs to administer the Food Stamp program. The remaining 50% of administrative costs are provided by the state. A reduction in those eligible for the Food Stamp program may not necessarily mean a reduction in the funds provided by the federal government.

**Explanation of Local Expenditures:** A county Office of Family and Children is allowed to administer additional drug tests to certain individuals specified in the legislation that are eligible for assistance under the TANF and Food Stamp program. This will increase expenditures on drug tests as well as increase the workload of the staff to the extent these offices elect to administer additional drug tests to the defined population. [Note: The legislation does add a provision that these county offices have the ability to contract out the drug test administration required in the bill. Contracting out the drug testing requirement may decrease the personnel costs.

### **Explanation of Local Revenues:**

**State Agencies Affected:** OMPP; DFR.

**Local Agencies Affected:** County Offices of Family and Children.

**Information Sources:** *Issues Relating to the Organizational Structure of the Office of the Secretary of Family and Social Services; FSSA Comparative Review of Selected Programs; Jason Dudrich, FSSA; 1997*

*National Household Survey of Drug Abuse*; Rich Adams, FSSA; David Webster, FSSA; Jessaca Turner-Stults, FSSA; Elizabeth Johnson, Department of Corrections.

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