

HB 121-FN – AS INTRODUCED

2013 SESSION

13-0133
05/01

HOUSE BILL ***121-FN***

AN ACT requiring drug testing of applicants for Temporary Assistance to Needy Families (TANF).

SPONSORS: Rep. LeBrun, Hills 32; Rep. Notter, Hills 21

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill requires the department of health and human services to implement a drug testing program for applicants of Temporary Assistance to Needy Families (TANF).

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 121-FN – AS INTRODUCED
- Page 2 -

1 has received and understood the notice provided under this paragraph.

2 (f) Specify circumstances under which an individual who fails a drug test has the right to
3 take one or more additional tests.

4 (g) Inform an individual who tests positive for a controlled substance and is deemed
5 ineligible for TANF benefits for one year pursuant to paragraph III that the individual may reapply
6 for those benefits 6 months after the date of the positive drug test if he or she meets the
7 requirements of paragraph V.

8 (h) Provide any individual who tests positive with a list of substance abuse treatment
9 providers approved by the department which are available in the area in which he or she resides.
10 Neither the department nor the state shall be responsible for providing or paying for substance
11 abuse treatment.

12 V. An individual who tests positive for an illegal drug and is denied TANF benefits for one
13 year may reapply for TANF benefits after 6 months if the individual can document the successful
14 completion of a substance abuse treatment program offered by a provider approved by the
15 department. An individual who has met the requirements of this paragraph and reapplies for TANF
16 benefits shall also pass an initial drug test and otherwise meet the requirements of this subdivision.
17 The cost of any drug testing provided under this section and substance abuse treatment shall be the
18 responsibility of the individual being tested and receiving treatment. An individual who fails the
19 drug test required under this subdivision may reapply for TANF benefits under this paragraph only
20 once.

21 VI. If a parent is deemed ineligible for TANF benefits as a result of failing a drug test
22 conducted under this section:

23 (a) The dependent child's eligibility for TANF benefits shall not be affected;

24 (b) An appropriate protective payee shall be designated to receive benefits on behalf of
25 the child: and

26 (c) The parent may choose to designate another individual to receive benefits for the
27 parent's minor child. The designated individual must be an immediate family member or, if an
28 immediate family member is not available or the family member declines the option, another
29 individual approved by the department. The designated individual shall also undergo drug testing
30 before being approved to receive benefits on behalf of the child. If the designated individual tests
31 positive for controlled substances, he or she shall be ineligible to receive benefits on behalf of the
32 child.

33 VII. The results of any drug test done according to this subdivision shall not be subject to
34 disclosure under RSA 91-A. Such results shall not be used as a part of a criminal investigation or
35 criminal prosecution. Such results shall not be used in a civil action or otherwise disclosed to any
36 person or entity without the express written consent of the person tested or his or her heirs or legal
37 representative. All such records shall be destroyed and deleted 5 years after the date of the test.

1 VIII. No testing shall be required by this subdivision for any person whom the department
2 determines is significantly hindered, because of a physical or mental disability, from doing so. In
3 addition, no testing shall be required by this subdivision for any individuals receiving or on a waiting
4 list for long-term services and supports through a home and community-based services program or
5 for any individual residing in a facility such as a nursing home, personal care home, assisted living
6 community, intermediate care facility for the developmentally disabled, community living
7 arrangement, or host home.

8 167:99 Definition of Drug Test. In this subdivision, the term “drug test” means the collection
9 and testing of bodily fluids administered in a manner equivalent to that required by the Mandatory
10 Guidelines for Federal Workplace Drug Testing Programs, 53 F.R. 11979, as amended, or other
11 professionally valid procedures approved by the department.

12 167:100 Rulemaking Authority. The department shall adopt rules, under RSA 541-A, relative to
13 the drug testing program, which shall include the following:

14 I. Which illegal drugs will be the subject of testing.

15 II. Methods for assuring minimal privacy intrusions during collection of body fluid
16 specimens for such testing.

17 III. Methods for assuring proper storage, transportation, and handling of such specimens in
18 order to ensure the integrity of the testing process.

19 IV. The identity of those persons entitled to the results of such tests and methods for
20 ensuring that only authorized persons are given access to such results.

21 V. A list of laboratories qualified to conduct established drug tests.

22 VI. A list of approved substance abuse treatment providers.

23 VII. Procedures for persons undergoing drug testing, prior to the collection of body fluid
24 specimens for such testing, to provide information regarding use of any drug pursuant to a medical
25 prescription or as otherwise authorized by law which may affect the results of such test.

26 VIII. Criteria for persons exempt from testing under RSA 167:98, VIII.

27 IX. A requirement that the test be conducted no later than 48 hours after the application is
28 approved by the department for TANF eligibility. Proof of eligibility from the department shall be
29 issued to the applicant. The applicant shall show proof of eligibility to an authorized test examiner
30 prior to submitting to the test.

31 X. A requirement that any applicant who demonstrates proof of active and current Medicaid
32 benefits shall pay a drug screening application fee of no more than \$17.00, and no authorized test
33 examiner shall conduct a drug test if an applicant demonstrates active and current Medicaid benefits
34 unless the applicant presents a receipt proving that he or she has paid the required drug screening
35 application fee. Eligible applicants who do not have active and current Medicaid benefits shall be
36 responsible for paying the full cost of administering the drug test upon presentation to an authorized
37 examiner.

HB 121-FN – AS INTRODUCED
- Page 4 -

1 2 Effective Date. This act shall take effect January 1, 2014.

HB 121-FN - FISCAL NOTE

AN ACT requiring drug testing of applicants for Temporary Assistance to Needy Families (TANF).

FISCAL IMPACT:

The Department of Health and Human Services states this bill, **as introduced**, will have an indeterminable impact on state and local expenditures in FY 2014 and each year thereafter. There will be no fiscal impact on state, county, or local revenues, or county expenditures.

METHODOLOGY:

The Department of Health and Human Services states this bill mandates the Department to require a drug test to screen each individual who applies for assistance from the Temporary Assistance for Needy Families (TANF) program. The bill requires the applicant bear the initial cost of the drug screening, subject to reimbursement by the Department if the drug screen is negative. In the event the drug screen is positive, the applicant is barred from receiving TANF cash assistance for one year, and until the applicant tests negative in a re-test. The bill allows applicants to shorten the disqualification period to six months by documenting the successful completion of a substance abuse treatment program, and by retaking and passing a drug test, both at the applicant's expense. The bill states that assistance received for dependent minor children is not affected by an applicant's positive test, although the Department must approve an appropriate protective payee to receive benefits on behalf of the child.

Based upon current caseloads, the Department estimates 2,670 TANF applicants will need to be screened for drug use. Because TANF recipients must reapply every six months, the Department assumes each applicant will need to be tested twice per year. The Department estimates the cost of each drug test at \$45, and cites data indicating between 2.6 percent and 8.8 percent of applicants will test positive for drug use. Based on these numbers, the Department assumes it will reimburse applicants who test negative an amount between \$219,153 ($2,670 * 2 * \$45 * 0.912$) and \$234,052 ($2,670 * 2 * \$45 * 0.974$) annually. The Department further identifies a variety of additional costs which it states are not quantifiable at this time, including costs associated with laboratory fees; modifying facilities to accommodate drug testing; modifying computer programs to include drug testing as an

eligibility determinant; and staff time to administer tests, monitor compliance and eligibility, and address increased administrative hearings.

The Department states the average TANF cash assistance grant for an additional household member is \$60. Since the Department assumes between 2.6 percent and 8.8 percent of applicants will be deemed ineligible based on positive drug screens, the Department estimates cost savings between \$49,982 ($2,670 * 0.026 * \$60 * 12$ months) and \$169,171 ($2,670 * 0.088 * \$60 * 12$ months) annually. Since individuals deemed ineligible may seek assistance from municipalities, there may be an indeterminable impact on local expenditures.