
DIGEST

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Whitney

HB No. 952

Abstract: Provides for drug testing of persons who receive or apply for cash assistance or unemployment benefits.

Proposed law establishes drug screening and testing policies within the unemployment compensation and cash assistance programs of this state as detailed below.

Drug Testing for Unemployment Benefits

Proposed law authorizes and directs the executive director of the La. Workforce Commission (LWC) to establish a drug screening and testing program for unemployment compensation applicants and recipients. Provides that no person shall be tested if such testing is prohibited by federal law; no sanction shall be imposed on a person if the sanction is prohibited by federal law; and that the drug screening and testing program shall provide procedural safeguards to ensure the protection of the constitutional rights of program participants and provide that testing is conducted by state certified laboratories.

Proposed law requires LWC to screen all applicants for and recipients of benefits for the use of or dependency on illegal drugs at the time of the initial application, and at the time of redetermination of eligibility, using a recognized and standardized drug abuse screening procedure. Provides that completion of the drug screening shall be a condition for all of the following:

- (1) Initial eligibility for applicants for benefits.
- (2) Continuing benefits eligibility for recipients.

Proposed law requires LWC to order drug testing of an applicant for or a recipient of benefits at any time when there exists reasonable suspicion, as determined in accordance with proposed law, that the person is unlawfully using a controlled substance or controlled substance analogue, defined as a substance that has a chemical structure which is substantially similar to that of a controlled dangerous substance.

Proposed law provides that in addition to results of the drug screening, LWC may use any other information or observations to determine whether reasonable suspicion of unlawful drug use exists, including but not limited to information and observations relative to the following:

- (1) Demeanor of the applicant or recipient.
- (2) Missed appointments.
- (3) Arrest records or other police records.
- (4) Previous employment or application for employment in an occupation or industry that regularly conducts drug screening.
- (5) Termination from previous employment due to unlawful use of a controlled substance or controlled substance analogue.
- (6) Prior drug screening or testing records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analogue.

Proposed law provides that any applicant for or recipient of benefits who tests positive for illegal drug use may request that the specimen submitted for the drug test be sent to a different drug testing facility for an additional test, and that the cost of the additional test shall be borne by the requestor. Provides that if the person tests negative in the additional test, he shall be reimbursed for its cost.

Proposed law provides that an applicant for or recipient of benefits who tests positive once for illegal drug use is required to complete a substance abuse treatment program and a job skills program approved by the administrator of the unemployment compensation program, referred to hereafter as "administrator".

Proposed law provides that, subject to applicable federal laws, any applicant for or recipient of benefits who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required in proposed law shall be ineligible to receive benefits until completion of such substance abuse treatment and job skills programs.

Proposed law provides that upon completion of both substance abuse treatment and job skills programs, the applicant or recipient may be subject to periodic drug screening, as determined by the administrator.

Proposed law requires LWC to take all of the following actions pursuant to a recipient's second positive drug test:

- (1) Require him to complete again an approved substance abuse treatment program and an approved job skills program.
- (2) Bar him from the benefits program for a period of 12 months, or until he completes both substance abuse treatment and job skills programs, whichever is later.

Proposed law requires that upon a recipient's third positive drug test, LWC shall permanently bar

him from the unemployment benefits program, subject to applicable federal law.

Proposed law provides that except for hearings before LWC, the results of any drug screening or testing administered pursuant to the provisions of proposed law shall be confidential and shall not be disclosed publicly.

Proposed law requires LWC to promulgate rules and regulations to implement proposed law in accordance with the APA; and that such rules and regulations provide that the cost of drug testing participants and the treatment of those persons be borne by LWC or departments that grant the applicable public assistance. Provides that LWC may develop such rules and regulations in consultation with the secretary of the Dept. of Health and Hospitals and the commissioner of administration.

Proposed law requires LWC to prepare a written statistical report on the drug testing program and submit the report to the legislature on or before July 1, 2015, and annually thereafter.

Drug Testing for Cash Assistance Benefits

Present law provides for drug testing for recipients of Family Independence Temporary Assistance Program cash assistance provided through the federal Temporary Assistance for Needy Families block grant program administered at the state level by the Dept. of Children and Family Services (DCFS). Provides that the program of drug testing shall have the following features, requirements, and functions, subject to funding availability:

- (1) As a condition for continued receipt of benefits, require a participant to complete an education and rehabilitation program after being identified as an illegal drug user through a positive drug test.
- (2) Provide for the suspension of participation in the cash assistance program for a participant identified as an illegal drug user through a positive drug test. Present law provides, however, that in no event shall benefits be suspended while the participant is taking part in the education and rehabilitation program, or pending availability of an education and rehabilitation program to the participant.
- (3) Make available a program of education and rehabilitation for participants identified as illegal drug users, and stipulate that such program include regulations governing the reentry of a suspended recipient into the cash assistance program based on subsequent testing results and completion of education and rehabilitation programs.
- (4) Include the provision of inpatient services for any participant identified as an illegal drug user if it is determined that such inpatient services are necessary for successful rehabilitation.

Proposed law deletes present law and adds in lieu thereof a drug testing program as detailed below.

Proposed law requires DCFS to screen all adult applicants for and recipients of cash assistance for illegal drug use at the time of the initial application, and at the time of redetermination of eligibility, using a recognized and standardized drug abuse screening procedure. Provides that completion of the drug screening shall be a condition for both:

- (1) Initial eligibility for applicants for cash assistance.
- (2) Continuing eligibility for benefits for recipients of cash assistance.

Proposed law requires DCFS to order drug testing of an applicant for or a recipient of benefits at any time when there exists reasonable suspicion, as determined in accordance with proposed law, that the person is unlawfully using a controlled substance or controlled substance analogue, defined as a substance that has a chemical structure which is substantially similar to that of a controlled dangerous substance.

Proposed law provides that in addition to results of the drug screening, LWC may use any other information or observations to determine whether reasonable suspicion of unlawful drug use exists, including but not limited to information and observations relative to the following:

- (1) Demeanor of the applicant or recipient.
- (2) Missed appointments.
- (3) Arrest records or other police records.
- (4) Previous employment or application for employment in an occupation or industry that regularly conducts drug screening.
- (5) Termination from previous employment due to unlawful use of a controlled substance.
- (6) Prior drug screening or testing records of the applicant or recipient indicating unlawful use of a controlled substance.

Proposed law provides that any applicant for or recipient of cash assistance who tests positive for illegal drug use may request that the specimen submitted for the drug test be sent to a different drug testing facility for an additional test, and that the cost of the additional test shall be borne by the requestor. Provides that if the person tests negative in the additional test, he shall be reimbursed for its cost.

Proposed law provides that an applicant for or recipient of cash assistance who tests positive once for illegal drug use is required to complete a substance abuse treatment program and a job skills program approved by the DCFS secretary.

Proposed law provides that, subject to applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or refuses to participate in the substance abuse treatment

program or job skills program as required in proposed law shall be ineligible to receive benefits until completion of such substance abuse treatment and job skills programs.

Proposed law provides that upon completion of both substance abuse treatment and job skills programs, the applicant or recipient may be subject to periodic drug screening, as determined by the DCFS secretary.

Proposed law requires DCFS to take all of the following actions pursuant to a recipient's second positive drug test:

- (1) Require him to complete again an approved substance abuse treatment program and an approved job skills program.
- (2) Bar him from the benefits program for a period of 12 months, or until he completes both substance abuse treatment and job skills programs, whichever is later.

Proposed law requires that upon a recipient's third positive drug test, DCFS shall permanently bar him from the cash assistance program, subject to applicable federal law.

Proposed law provides that if an applicant for or recipient of cash assistance is determined ineligible for or is terminated from cash assistance as a result of a positive drug test, and the person is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of the child, subject to approval by DCFS. Provides that prior to the designated individual receiving any cash assistance, DCFS shall review whether reasonable suspicion exists that the individual is using an illegal drug.

Proposed law provides that any individual designated to receive cash assistance on behalf of an eligible minor child pursuant to proposed law shall be subject to drug testing at any time when reasonable suspicion, determined in accordance with proposed law, exists that the designated individual is using an illegal drug.

Proposed law provides that in the case of an individual designated to receive cash assistance on behalf of an eligible minor child testing positive for drug use, he may be retested in the same manner as prescribed by proposed law for a cash assistance applicant or beneficiary.

Proposed law provides that if an individual designated to receive cash assistance on behalf of an eligible minor child tests positive for drug use, he shall be deemed ineligible to receive cash assistance on behalf of the child, and DCFS shall select another designated individual to receive cash assistance on behalf of the child.

Proposed law provides that if a person has been convicted under federal or state law of any drug-related offense, the following restrictions on eligibility for cash assistance apply:

- (1) In the case of a first offense, the person shall become ineligible to receive cash assistance for 5 years from the date of conviction.

- (2) If not a first offense, then the person shall become permanently ineligible to receive cash assistance.

Proposed law provides that except for hearings before DCFS, the results of any drug screening or testing administered pursuant to the provisions of proposed law shall be confidential and shall not be disclosed publicly.

Proposed law retains present law requiring DCFS to promulgate rules and regulations in accordance with the APA to implement drug testing within the cash assistance program, and that such rules and regulations provide that the cost of drug testing participants and the treatment of those persons be borne by DCFS or departments that grant the applicable public assistance. Provides that DCFS may develop such rules and regulations in consultation with the secretary of the Dept. of Health and Hospitals and the commissioner of administration.

Proposed law requires DCFS to prepare a written statistical report on the drug testing program and submit the report to the legislature on or before July 1, 2015, and annually thereafter.

(Amends R.S. 46:460.10; Adds R.S. 23:1600(9), 1601(12), 1601.1, and R.S. 46:460.11)