

CHAPTER 2011-81

Committee Substitute for Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 353

An act relating to drug screening of potential and existing beneficiaries of Temporary Assistance for Needy Families; creating s. 414.0652, F.S.; requiring the Department of Children and Family Services to perform a drug test on an applicant for Temporary Assistance for Needy Families benefits; requiring such individual to bear the cost of the drug test; requiring the department to provide, and the applicant to acknowledge receipt of, notice of the drug-screening policy; requiring the department to increase the amount of the initial TANF benefit by the amount paid by the individual for the drug testing; providing procedures for testing and retesting; requiring the department to provide information concerning local substance abuse treatment programs to an individual who tests positive; providing conditions for an individual to reapply for Temporary Assistance for Needy Families benefits; providing that, if a parent is ineligible as a result of failing a drug test, the eligibility of the children is not affected; providing conditions for designating another protective payee; providing rulemaking authority to the department; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 414.0652, Florida Statutes, is created to read:

414.0652 Drug screening for applicants for Temporary Assistance for Needy Families.—

(1) The department shall require a drug test consistent with s. 112.0455 to screen each individual who applies for Temporary Assistance for Needy Families (TANF). The cost of drug testing is the responsibility of the individual tested.

(a) An individual subject to the requirements of this section includes any parent or caretaker relative who is included in the cash assistance group, including an individual who may be exempt from work activity requirements due to the age of the youngest child or who may be exempt from work activity requirements under s. 414.065(4).

(b) An individual who tests positive for controlled substances as a result of a drug test required under this section is ineligible to receive TANF benefits for 1 year after the date of the positive drug test unless the individual meets the requirements of paragraph (2)(j).

(2) The department shall:

(a) Provide notice of drug testing to each individual at the time of application. The notice must advise the individual that drug testing will be conducted as a condition for receiving TANF benefits and that the individual must bear the cost of testing. If the individual tests negative for controlled substances, the department shall increase the amount of the initial TANF benefit by the amount paid by the individual for the drug testing. The individual shall be advised that the required drug testing may be avoided if the individual does not apply for TANF benefits. Dependent children under the age of 18 are exempt from the drug-testing requirement.

(b) Require that for two-parent families, both parents must comply with the drug-testing requirement.

(c) Require that any teen parent who is not required to live with a parent, legal guardian, or other adult caretaker relative in accordance with s. 414.095(14)(c) must comply with the drug-testing requirement.

(d) Advise each individual to be tested, before the test is conducted, that he or she may, but is not required to, advise the agent administering the test of any prescription or over-the-counter medication he or she is taking.

(e) Require each individual to be tested to sign a written acknowledgment that he or she has received and understood the notice and advice provided under paragraphs (a) and (d).

(f) Assure each individual being tested a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state's need to ensure the reliability of the sample.

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

(h) Inform an individual who tests positive for a controlled substance and is deemed ineligible for TANF benefits that the individual may reapply for those benefits 1 year after the date of the positive drug test unless the individual meets the requirements of paragraph (j). If the individual tests positive again, he or she is ineligible to receive TANF benefits for 3 years after the date of the second positive drug test unless the individual meets the requirements of paragraph (j).

(i) Provide any individual who tests positive with a list of licensed substance abuse treatment providers available in the area in which he or she resides that meet the requirements of s. 397.401 and are licensed by the department. Neither the department nor the state is responsible for providing or paying for substance abuse treatment as part of the screening conducted under this section.

(j) An individual who tests positive under this section and is denied TANF benefits as a result may reapply for those benefits after 6 months if the individual can document the successful completion of a substance abuse treatment program offered by a provider that meets the requirements of s.

397.401 and is licensed by the department. An individual who has met the requirements of this paragraph and reapplies for TANF benefits must also pass an initial drug test and meet the requirements of subsection (1). Any drug test conducted while the individual is undergoing substance abuse treatment must meet the requirements of subsection (1). The cost of any drug testing and substance abuse treatment provided under this section shall be the responsibility of the individual being tested and receiving treatment. An individual who fails the drug test required under subsection (1) may reapply for benefits under this paragraph only once.

(3) If a parent is deemed ineligible for TANF benefits as a result of failing a drug test conducted under this section:

(a) The dependent child's eligibility for TANF benefits is not affected.

(b) An appropriate protective payee shall be designated to receive benefits on behalf of the child.

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

(4) The department shall adopt rules to implement this section.

Section 2. This act shall take effect July 1, 2011.

Approved by the Governor May 31, 2011.

Filed in Office Secretary of State May 31, 2011.