

State Notes

TOPICS OF LEGISLATIVE INTEREST

Summer 2012



Drug Testing Welfare Recipients: A Review of Potential Costs and Savings By Frances Carley, Fiscal Analyst

Summary

Currently, the Michigan Senate and House of Representatives are considering two bills – Senate Bill 904 and House Bill 5223 – that would implement a suspicion-based drug testing program as part of the eligibility process to receive Family Independence Program (FIP) cash assistance. The net costs or savings of such a requirement would depend largely on the program's implementation. It is possible that the State could realize savings due to a reduced caseload. Savings would be contingent on proper screening and testing of recipients and applicants, as well as the percentage of those who returned to FIP assistance after completing a treatment program, among other issues.

This article provides background on Michigan's previous attempt to implement a drug testing requirement for FIP assistance, a description of similar efforts in other states, and an overview of suspicion-based drug testing. Hypothetical costs and caseload savings are also included with the understanding that the actual numbers would depend on the ways in which such a policy would be implemented. Additionally, some consideration is given to the potential costs of substance abuse treatment and how the caseload numbers could be influenced in the future by those who either successfully completed treatment or relapsed.

Brief History of Drug Testing in Michigan

In 1999, Michigan introduced a pilot program to test all recipients of FIP cash assistance for drug use, with the goal to implement the program statewide by April 2003. A drug test was required of every FIP recipient and applicant, meaning that the program was "suspicionless". If the program had been implemented fully, FIP eligibility would have been made contingent on a negative result on the drug test. While it was in effect, the pilot program tested 435 applicants for drug use; 10.3% of them tested positive.

In 1999, the American Civil Liberties Union (ACLU) filed a lawsuit, *Marchwinski v. Howard*, in U.S. District Court against the Department of Human Services (then the Family Independence Agency), alleging that the drug testing program was a violation of Fourth Amendment rights, which protect against unreasonable searches. The pilot had been in operation for little more than a month – from October 1, 1999, until November 10, 1999 – before the U.S. District Court issued a preliminary injunction against the Department of Human Services (DHS) to cease the testing. The ruling considered such a drug test to be a "search" and, as such, it could not be suspicionless. Eventually, the entire Sixth Circuit bench affirmed the ruling in 2003. The DHS and the ACLU entered into a consent order, which kept the preliminary injunction in place until January 1, 2007.

A new, suspicion-based version of the drug testing program could be constitutionally permissible, however, and it would be consistent with Federal law. According to the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Sec. 902, "States shall not be prohibited by the Federal Government from testing welfare recipients for use of controlled substances nor from sanctioning welfare recipients who test positive for use of controlled substances."



Drug Testing in Other States

In the past few years, legislation that would require welfare recipients to submit to substance abuse tests has been a popular effort, yet few such laws have been enacted. During 2010 and the first half of 2011, 82 bills on this subject were proposed in 31 state legislatures and the U.S. Congress. Missouri and Florida are two states that were successful in passing drug testing legislation during this time period. Missouri's program was designed to be suspicion-based, while the Florida program was not. The State of Florida is currently facing a lawsuit similar to the one that the ACLU filed against the State of Michigan in 1999. On the other hand, Arizona has had a suspicion-based substance abuse test in place since 2009, and more than 20 Indian tribes also use drug screening and testing as a condition for receiving cash assistance and none of these have faced any similar legal problems.¹ (See "Summary of Potential Costs and Savings" for more information on estimates from Florida and Missouri.)

Suspicion-Based Screening

In order to implement a suspicion-based drug testing program, the State of Michigan would have to incorporate some type of screening tool or questionnaire into the process. An empirically valid screening tool would be more likely to detect those who are abusing illegal drugs than would an unproven or informal survey.

Before Florida implemented a suspicionless drug test in 2011, the state had conducted a suspicion-based pilot program from January 1, 1999, through May 31, 2000. The pilot program had used the Substance Abuse Subtle Screening Inventory (SASSI) in order to screen clients for potential drug use. This is just one example of an empirical tool. The SASSI Institute claims a 94.0% rate of accuracy in identifying the probability of substance dependence disorder and a 93.0% rate of accuracy in determining those who do not have a disorder.²

Despite the reported accuracy of SASSI, it is important to recognize the limitations of a screening tool, as well as the limits of the drug test itself. In 2011, the U.S. Department of Health and Human Services (HHS) issued a report on drug testing of welfare recipients. The report noted, "Drug tests detect recent drug use, but provide no information about frequency of use, impairment, or treatment needs."³ For example, if a client is abusing a "hard" drug such as cocaine, a urinalysis would be able to detect usage only within the past two days. In other words, a habitual but not daily user could go undetected, skewing the projected percentage of clients who would be removed from assistance compared with the percentage who are indeed substance abusers.

The results of Florida's suspicion-based pilot program illustrate some of these limitations. The pilot screened all new applicants in two regions using SASSI. Of those screened, 22.4% were identified as having a substance abuse problem. On the same day as the SASSI screening, the applicants were then required to submit to a urine test in order to continue the application process. Out of the total applicants, 335 people, or 5.1%, failed the urine test. One study refers to SASSI's false negative rate of 7.0%, which meant that an additional 353 people who were screened in the pilot

¹ Office of the Assistant Secretary for Planning (ASPE), U.S. Department of Human Services, "Drug Testing Welfare Recipients: Recent Proposals and Continuing Controversies", October 2011.

² The SASSI Institute, <http://www.sassi.com/products/>. Retrieved on 7/11/12.

³ U.S. Department of Health and Human Services, October 2011.



program were either alcohol or drug users but were not identified by SASSI. The study also referred to SASSI's false positive rate of 6.0%, meaning that SASSI would have incorrectly identified additional individuals as substance abusers. The researchers concluded that the 6.0% false positive rate was "of no concern", however, "since the urinalysis sorted these individuals out".⁴ Despite the limitations of the test, the Florida pilot program was able to identify a considerable portion of the likely drug users, resulting in a reduced caseload.

Estimated Percentage of Cash Assistance Recipients Using Illegal Drugs

The percentage of welfare recipients who use illegal drugs is similar to – only slightly higher than – the percentage of drug users among the general population. The authors of the 2011 HHS report had reviewed several research studies on the frequency of drug use among welfare recipients. According to the HHS, most studies have found that between 5.0% and 10.0% of welfare recipients abuse illegal drugs.⁵ Similarly, in 1999, Michigan's pilot program found that 10.3% of FIP recipients tested positive for illicit drug use.⁶ As discussed in the previous section, Florida's suspicion-based pilot program found that a total of 5.1% of welfare applicants and recipients tested positive for illegal drug use over an 18-month period.

Impacts of Drug Testing

The 2011 report from the HHS consolidated the available research on the impacts of drug testing in terms of savings, child well-being, and increased employability.⁷ None of the legislative analyses that were reviewed by the HHS included projected savings, but caseload reductions could translate into savings depending on the program's implementation. Regarding a drug testing program's impact on child well-being, the research is limited, as rigorous studies have not been conducted. The analyses of child well-being that are available show mixed results – some suggest that decreases in benefits lead to increased risks to children, while other analyses have shown that drug testing might deter parents from using drugs, potentially having a positive impact on children. Regarding employability, some limited academic research has been conducted. One study based on data from the Florida pilot program determined that "substance abuse is not the barrier to work for individuals that it has been thought to be, nor does such use predict economic hardship".⁸ The data were compiled in another study, which determined that "users were employed at about the same rate as were non-users, earned approximately the same amount of money as those who were drug free and did not require substantially different levels of governmental assistance".⁹ The study found that non-drug users earned approximately \$18 more per week than drug users. As these drug testing programs are relatively new, the actual outcomes are still largely unknown.

⁴ Crew, Robert E. PhD, and Davis, Belinda Creel, PhD. "Assessing the Effects of Substance Abuse Among Applicants for TANF Benefits: The Outcome of a Demonstration Project in Florida". *Journal of Health & Social Policy*, Vol. 17(1) 2003.

⁵ *Office of the Assistant Secretary for Planning (ASPE), U.S. Department of Human Services*, "Drug Testing Welfare Recipients: Recent Proposals and Continuing Controversies," October 2011.

⁶ Data provided by the Department of Human Services.

⁷ U.S. Department of Health and Human Services, October 2011.

⁸ Crew, Robert E., PhD, and Davis, Belinda Creel, PhD. "Substance Abuse as a Barrier to Employment of Welfare Recipients". *Journal of Policy Practice*, Vol. 5(4) 2006.

⁹ Crew and Davis, 2003.



Summary of Potential Costs and Savings

The question of whether a drug testing program would result in either net costs or savings entirely depends on the way in which the program was implemented. The most significant determining factors would be the accuracy of the screening tool, how the screening tool was administered, whether the drug tests were timed correctly so that they could detect an illegal substance, and who was responsible for paying for the costs of both the drug test and substance abuse treatment for non-Medicaid recipients.

For example, if a Michigan program followed the model of the pilot program that was introduced in Florida in 1999, it is possible that as many as 5.0% of the total FIP recipients would lose their benefits for six to 12 months, resulting in caseload savings for the State. On the other hand, when Florida implemented a statewide suspicionless drug testing program in 2011, just 2.6% of applicants were found to be using illegal drugs and were denied assistance.¹⁰ Florida's program targeted only new applicants and re-applicants, meaning that the regular caseload of approximately 50,000 families was not affected by the policy. Additionally, Florida's program did not eliminate benefits for children of households if the adult recipient was found to be a drug user. Rather, the program allowed the adult to designate another adult to receive benefits on behalf of the children.¹¹ Savings were therefore minimal under this program model. Missouri's model is similar to Florida's in that children in households with a drug abusing adult are able to continue to receive cash assistance. As such, Missouri has calculated only minimal savings for reduced monthly payments, because the model does not eliminate cases altogether.¹²

By demonstrating several possible scenarios, Table 1 takes into account some of the unpredictable factors involved in calculating a cost/saving estimate. Estimates for the removal of 1.0% to 10.0% of the caseload for six to 12 months are included. Based on the Florida pilot project, it is possible for the State to identify and remove as much as 5.0% of the FIP population from assistance. The potential costs and caseload savings for this level are highlighted in bold. The potential costs of treatment are addressed as a separate issue below and are not included in this table. Table 1 also illustrates that, in order for the State to realize any net savings if the costs are at the high end of the range, approximately 3.8% of the current FIP population and new applicants would have to be removed from assistance for six months, or 1.9% would have to be removed for 12 months. If the actual annual costs fall on the lower end of the range, it is possible that savings could be realized when just 1.0% of the FIP population is removed from assistance for six months. If the DHS allows children to continue to receive FIP, however, the program will have a minimum impact on the caseload, and would result in little savings.

¹⁰ Alvarez, Lizette, No Savings Are Found From Welfare Drug Tests, New York Times, April 17, 2012. Retrieved on 7/16/12: <http://www.nytimes.com/2012/04/18/us/no-savings-found-in-florida-welfare-drug-tests.html>.

¹¹ *State of Florida Department of Children and Families*. "Applicants for Temporary Cash Assistance Must First Pass Drug Test," Press Release, July 1, 2011. Retrieved from http://www.dcf.state.fl.us/newsroom/pressreleases/20110701_TCACHanges.shtml on 7/23/2012.

¹² Information provided from the Missouri Department of Social Services on 7/23/2012.

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Table 1

Potential Costs and Caseload Savings Estimates¹⁾						
Cases with a Client Who Tests Positive on a Drug Test	Estimated Baseline Costs²⁾	Baseline Costs + Drug Test³⁾	Estimated Total Caseload Savings at Six Months	ESTIMATED NET COST/ SAVINGS AT SIX MONTHS⁴⁾	Estimated Total Caseload Savings at 12 Months	ESTIMATED NET COST/ SAVINGS AT 12 MONTHS
1	---	---	\$2,400	---	\$4,800	---
381 1.0%	\$700,000 - \$3,047,840	\$1,041,400 - \$3,389,198	\$914,352	\$0-\$2,474,846 In costs	\$1,828,704	\$0-\$1,560,494 In costs
724 1.9%	\$700,000 - \$3,047,840	\$1,041,400 - \$3,389,198	\$1,737,269	\$0-\$16,51,929 In costs	\$3,474,538	\$0-\$85,340 In savings
1,448 3.8%	\$700,000 - \$3,047,840	\$1,041,400 - \$3,389,198	\$3,474,538	\$0-\$85,340 In savings	\$6,949,075	\$0-\$3,559,877 In savings
1,905 5.0%	\$700,000 - \$3,047,840	\$1,041,400 - \$3,389,198	\$4,571,760	\$0-\$1,182,562 In savings	\$9,143,520	\$0-\$5,754,322 In savings
2,857 7.5%	\$700,000 - \$3,047,840	\$1,041,400 - \$3,389,198	\$6,857,640	\$0-\$3,468,442 In savings	\$13,715,280	\$0-\$10,326,082 In savings
3,810 10.0%	\$700,000 - \$3,047,840	\$1,041,400 - \$3,389,198	\$9,143,520	\$0-\$5,754,322 In savings	\$18,287,040	\$0-\$14,897,842 In savings
<p>¹⁾ The estimates provided are for one year. Both the potential caseload savings and program costs would fluctuate based on the number of new cases and the number of clients who go for treatment and are able to renew their eligibility for assistance in upcoming years. This table assumes savings from the elimination of an entire case, including children. The average FIP case includes 2.7 individuals.</p> <p>²⁾ Baseline costs without a drug test are based on \$80 per person and the entire projected FY 2012-13 FIP caseload of 38,098 (not including approximately 15,200 child-only cases). This assumes that all adults will be screened using the formal, empirically validated screening tool. This estimate does not include new applicants, as these data are not available.</p> <p>³⁾ The drug test is estimated to be \$40 per test. The estimate assumes that 22.4% of those screened using an empirically-valid tool would be referred to take a drug test.</p> <p>⁴⁾ The net costs and savings at both six and 12 months are calculated based on costs of \$3,389,198, the higher cost estimate.</p> <p>Note: The GF/GP savings comprise approximately 20.0% of the total estimate.</p>						

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Explanation of Potential Savings Calculations

Michigan's fiscal year (FY) 2012-13 Caseload Consensus projected that the average monthly FIP caseload will be 53,298 and the average monthly payment will be \$397. The average number of child-only FIP cases from June 2010 to June 2012 was 15,200, making the total projected number of cases that would be affected by a drug testing policy, 38,098. For every case removed from assistance for six months, the State would save approximately \$2,400. For every case removed from assistance for 12 months, the State would save approximately \$4,800. The FIP program is funded with approximately 20.0% General Fund/General Purpose (GF/GP) dollars and 80.0% Federal funding.

Explanation of Potential Cost Calculations

The range of possible costs is based on both the Florida pilot project and Missouri's estimated costs minus substance abuse treatment. The actual costs to implement a drug testing program would vary depending on departmental policies and other factors. Two key costs are the costs of a urinalysis or other drug test and the costs of treatment for a substance abuse problem. Expenses also could include the purchase and proper administration of an empirically validated substance abuse screening tool, the modification of computer programs to include drug testing in eligibility criteria, and an increase in the number of hearings coming before the Michigan Administrative Hearings System.

The 1999 pilot program in Florida estimated a cost of \$30 for each drug test and a cost of \$90 per test once staff costs and other program costs were added.¹³ These costs included both the drug test itself and administrative overhead, including the use of SASSI. The baseline administrative costs were estimated at approximately \$60 per screened applicant. Treatment costs were not included.

Adjusted for inflation, the total costs of a new program would increase to \$120, with \$40 going toward the drug test itself. If all applicants/recipients of FIP received the formal, empirically validated screening tool, the baseline administrative costs of \$80 would be applied to each case (approximately 38,098 in FY 2012-13). The total baseline costs – excluding the costs of the drug test itself – would be approximately \$3.0 million. Table 1 includes an estimate for implementing the drug test itself. In the Florida pilot program, the SASSI screening tool referred 22.4% of the welfare caseload to take a drug test. Less than a quarter of those who were referred by SASSI actually tested positive for drugs.¹⁴ If this 22.4% referral estimate is applied to the adult FIP caseload, the estimated costs of a drug test would total \$341,360.

Additionally, the State of Missouri provides an example for cost comparison. Missouri's suspicion-based program is projected to cost up to \$2.6 million in FY 2012-13. Approximately \$1.9 million of these costs are for treatment. The estimate includes costs of increased staffing needs, administrative hearings, drug treatment, changes to electronic applications, and hiring contractors

¹³ U.S. Department of Human Services, October 2011.

¹⁴ Crew and Davis, 2003.

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to administer the drug tests.¹⁵ Missouri's costs without treatment are estimated to be \$700,000, providing another figure for comparison.¹⁶

Theoretically, it is possible that Federal Temporary Assistance for Needy Families (TANF) funds could be used to pay for the drug testing program as an administrative expense. The block grant limits the percentage of funding that can be used to cover administrative expenses, however. If the DHS has maximized its administrative expenditures, the additional expenses would have to be offset by GF/GP dollars. Additionally, the TANF block grant is overbudgeted in terms of ongoing expenses. The State has used TANF contingency funding to fill in gaps in funding over the past few years, but this funding is only temporary.

Substance Abuse Treatment

If a drug testing program were implemented and an FIP applicant or recipient tested positive for drug abuse, the individual would be required to go into a substance abuse treatment program in order to qualify for FIP. Nearly all FIP recipients also receive Medicaid, which would cover the costs of substance abuse treatment. According to DHS trend report statistics from FY 2010-11 to June 2012, however, anywhere from 8,500 to 14,300 FIP recipients are not receiving Medicaid at any given time. The reasons for this discrepancy are not entirely clear. The gap, in part, could be due to the use of private insurance by some individuals. The gap also could be due to the timing of the Medicaid eligibility determination process, which could be slower than the FIP eligibility process. Medicaid approval is retroactive to the date of the application, however. For these cases, it would be important to determine whether the costs would become an impediment to treatment for some individuals, whether the State would pay for the costs, or whether the individuals would be covered by Medicaid eventually.

Table 2 provides an estimate of the potential maximum costs of covering three types of treatment programs for the portion of FIP recipients who are not on Medicaid. As mentioned above, between 8,500 and 14,300 FIP recipients do not receive Medicaid at a given time, for an average of 11,248. If 5.0% of these recipients tested positive for drugs, there could be as many as 562 recipients without access to treatment. (Again, it is not clear whether these recipients would receive Medicaid eventually. This figure is an outside estimate.) The average number of recipients per FIP case is 2.7 which includes children. It is not clear whether the FIP clients without Medicaid are all adults or whether some are children and are part of a case with an adult head of household. Table 2 includes treatment estimates for both 562 recipients and 208 cases, which would be the maximum number of FIP recipients ineligible for Medicaid coverage based on the 11,248 average.

¹⁵ Information provided by the Missouri Department of Social Services on July 23, 2012.

¹⁶ *Missouri Department of Social Services*. "Family Support Division/MO HealthNet Division-Monthly Management Report, Table 1," May 2012.

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Table 2

Potential Costs of Treatment for Non-Medicaid FIP Recipients¹⁾			
Maximum # of Non-Medicaid FIP Recipients Referred for Treatment	Avg. Outpatient Costs FY 2010-11 \$664/person	Avg. Detoxification Costs FY 2010-11 \$708/person	Avg. Residential Costs FY 2010-11 \$2,384/person
562 recipients	\$373,200	\$397,900	\$1,340,000
208 cases	\$138,100	\$147,300	\$495,900

¹⁾ The cost per person for each type of treatment program was included in the FY 2010-11 Substance Abuse Annual Report, provided by the Department of Community Health.

Renewed Eligibility for FIP

One factor to take into consideration when estimating net costs and savings is the number of FIP recipients who might return to assistance after successfully completing a treatment plan. The National Institutes of Health estimates that approximately 40.0% to 60.0% of drug abusers who go through treatment will relapse.¹⁷ Therefore, it is possible that more than half of the individuals who tested positive for drugs and were removed from assistance would complete treatment and be able to receive FIP assistance again. This scenario would cause fluctuations in the savings estimates. It is also possible that an individual could successfully complete treatment and then relapse one month after benefits were reinstated. If an annual redetermination and test were in place, this person could feasibly continue to receive benefits for the remainder of the year, or possibly longer if the drug test were negative. Additionally, it is possible that those who relapsed would not have their benefits reinstated.

Conclusion

By implementing a drug testing requirement for FIP recipients and applicants, the State possibly would reduce the FIP caseload, thereby realizing Federal and GF/GP savings. If the DHS allows children to continue to receive FIP, however, the program will have a minimum impact on the caseload, and would result in little savings. Few states have successfully implemented such a program, which means that the best practices and likely outcomes have not been identified yet. It would serve the State to consider its goals in implementing a drug testing program. The models in Florida, Arizona, Missouri, and 20 Indian tribes, and the limited academic research on the subject would provide some guidance in this regard.

¹⁷ National Institutes of Health, "Relapse Rates are Similar for Drug Addiction and Other Chronic Illnesses", 2008. Graph retrieved on 7/16/12: <http://www.drugabuse.gov/publications/addiction-science/relapse/relapse-rates-drug-addiction-are-similar-to-those-other-well-characterized-chronic-ill>.