

**FINAL
FISCAL NOTE**

Drafting Number: LLS 12-0448	Date: June 12, 2012
Prime Sponsor(s): Rep. Sonnenberg Sen. Brophy	Bill Status: Lost in House
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TITLE: CONCERNING REQUIRING DRUG TESTING AS A CONDITION OF ELIGIBILITY FOR THE COLORADO WORKS PROGRAM.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures General Fund*	\$219,520	
FTE Position Change		
Effective Date: The bill was lost on second reading in the House of Representatives on March 29, 2012.		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: Increased Costs. See Local Government Impact section.		

* *This expenditure is for CBMS changes and federal Temporary Assistance for Needy Families (TANF) funds can be used for this purpose. However, at this time it is estimated that there will not be federal funds available and that General Fund is required.*

Summary of Legislation

The bill requires persons applying for assistance through the Colorado Works program to take and pass a drug test prior to receiving assistance. Applicants are required to pay for the test. If an applicant passes the drug test he or she is then reimbursed the costs of the test when receiving the first assistance payment. Reimbursement is not provided in the event of a positive test.

Dependent children under the age of 18 are not required to take a drug test. However, an unmarried person under the age of 18 with a dependent child who is not required to live with a parent or caretaker must meet the drug testing requirement. If parents do not pass the drug test, children are still eligible to receive their share of assistance through a protective payee (another family member or other person designated by the county department of social services), who is also required to take a drug test.

Applicants testing positive for a controlled substance are ineligible to receive assistance for one year. Applicants who fail a second drug test are ineligible for assistance for three years. However, applicants who fail a drug test and are facing either the one- or three-year period of ineligibility may apply for assistance after 6 months if they successfully complete a substance abuse treatment program and pass a subsequent drug test. The bill also sets forth various notification requirements and other provisions of the program.

Under the bill, the Governor, Lieutenant Governor, Secretary of State, Treasurer, Attorney General, and members of the General Assembly are also required to take a drug test each year at their own expenses. The bill does not specify the consequences if an elected official fails or refuses to take a drug test.

State Expenditures

The bill increases General Fund costs in the Department of Human Services by \$219,520 in FY 2012-13 for modifications to the Colorado Benefits Management System (CBMS). This amount is based upon 1,960 hours of program time at the contracted rate of \$112 per hour. These changes to CBMS are required to track data on drug tests taken, the results, periods of ineligibility, substance abuse treatment completed, and other information needed to correctly determine eligibility for Colorado Works assistance under the bill. While federal TANF funds can be used for this purpose, it is assumed that additional TANF funding is not available at this time and that General Fund is required.

Drug testing for elected officials is not expected to increase costs for any state agency. Elected officials are required to pay for the test themselves. The fiscal note assumes that the elected official will take the test at a facility capable of conducting drug tests and that the elected official will be responsible for publicly releasing the results, either on their own or in response to an open records request, to show compliance with the law.

Local Government Impact

The bill will result in both costs and savings to counties, but on the whole, the bill is estimated to **increase costs to counties by at least \$482,600**. Costs of \$1.3 million are anticipated to reimburse applicants for passed drug tests, including initial tests, requested re-tests, and tests for persons reapplying after completing a substance abuse treatment plan. These costs are partially offset by savings of (\$858,900) from reduced assistance payments to persons deemed ineligible because of drug use and a reduction in caseload from persons who are discouraged from applying because of the drug test. These costs and savings are summarized in Table 1 and the discussion below.

Funding to cover these costs will likely come from county block grants of federal TANF funds. In FY 2011-12, \$ 151.4 million was appropriated for county block grants. Assuming the block grant does not increase, these costs will require counties to reduce spending in other areas or to provide county-only funds to supplement the block grant funding. This estimate is based on the following assumptions:

- 28,387 applicants apply annually for Colorado Works assistance under current law;
- of the potential applicants under current law, 16,741 are adults seeking cash assistance and 1 percent of these adults (168) would be discouraged from applying;

- adults applying for assistance on behalf of children (without adult assistance) would not be discouraged from applying;
- 28,219 persons would apply for assistance under the bill, of which 93 percent (26,244) pass the drug test and 7 percent (1,975) fail the drug test;
- 30 percent of applicants who fail the initial test (593) would be allowed by program rules to take a re-test due to some extenuating circumstance (undisclosed legal prescription drug, inadvertent exposure, etc.) and would pass the re-test, and then be reimbursed for both tests;
- 1,382 protective payees would be required to receive the benefits on behalf of children whose parent failed the drug test, all of whom are required to take a drug test and who would pass/fail/re-test at the same rate as above (1,326 pass, 56 fail, and 17 retest and pass);
- 20 percent of applicants (276) who fail the initial drug test and are deemed ineligible will complete substance abuse training and reapply for benefits after 6 months and take and pass the drug test;
- of the 1,975 applicants who fail the initial drug test, 1,160 are adults who are applying for cash assistance and of these adults, 348 are retested and pass, 162 take substance abuse education and reapply in 6 months, and 650 are ineligible for assistance for the entire year;
- an initial drug test costs \$45 and a re-test costs \$100;
- the average period of receiving Colorado Works assistance is 6 months and the average adult share of assistance is \$175; and
- applicants will be pre-screened prior to the drug test to ensure that all other eligibility criteria are met.

Cost Components	Unit Cost	Number	Cost (Saving)
<i>Reimbursement for Passed Drug Test</i>			
Initial Tests of Applicants	\$45	26,244	\$1,180,980
Initial Tests of Protective Payees	45	1,326	59,670
Re-test of Applicants*	145	593	85,985
Re-test of Protective Payees*	145	17	2,465
Post-Treatment Testing / Re-application	45	276	12,420
Reimbursement Subtotal			\$1,341,520
<i>Reduced Assistance</i>			
Discouraged applicants	\$175 for 6 months	168	(\$176,400)
Adult cash assistance applicants ineligible from failed drug test	\$175 for 6 months	650	(682,500)
Reduced Assistance Subtotal			(\$858,900)
TOTAL			\$482,620

*Unit cost includes reimbursement for both the initial test and the re-test for these groups.

State Appropriations

The bill requires a General Fund appropriation to the Department of Human Services of \$219,520 in FY 2012-13, assuming federal funds are not available. This entire amount is reappropriated to the Governor's Office of Information Technology

Departments Contacted

Human Services Law OIT