



House Appropriations Health and Human Services  
Subcommittee

October 15, 2012

# **SUBSTANCE ABUSE TESTING FOR TANF/VIEW PARTICIPANTS**



# Drug Use

- Studies of the prevalence of substance abuse among welfare recipients have varied widely in their findings, with rates of between 4 and 37 percent reported.
  - Much of the difference in rates is due to different data sources, definitions and measurement methods, particularly the different thresholds used to define substance abuse.
  - Another key difference is whether alcohol abuse and/or the abuse of prescription drugs are included in the estimate.
  - Drug use and abuse is higher among single men in States' General Assistance (GA) caseloads than among single (largely female) parents on TANF.
- 



# Drug Use

- Typically, lower end estimates of around 5 percent or less focus on indications of diagnosable abuse of or dependence on illicit drugs among TANF clients.
  - Higher rates, in the 10 percent range, tend to include any past month use of illicit drugs.
  - Rates in the highest ranges (15 percent or more) usually define substance abuse to include alcohol abuse and include any past year (rather than past month) use of illicit drugs.
  - The highest rate noted to date in any study, 37 percent, included female welfare recipients reporting having used any illicit drug at least once in the past year and/or two or more binge drinking episodes in the past month (with binge drinking defined as having had 5 or more drinks on the same occasion or within a couple of hours).
- 



# Drug Use

- Most studies of TANF recipients and persons receiving means-tested government assistance find rates of substance abuse that are somewhat higher than those in the general population not on assistance, although not greatly different.
  - Typical among these is a 2002 analysis of substance abuse among persons in families receiving government assistance conducted by the Substance Abuse and Mental Health Services Administration (SAMHSA).
    - That analysis found that illicit drug use for families receiving government assistance was 9.6 percent compared to 6.8 percent of persons in families not receiving assistance.
- 



# Drug Use

- Many states already conduct substance abuse screening and assessment either as part of their TANF intake processes or at some point later, for example, after an unsuccessful job search or if a beneficiary quickly loses an initial job.
- These efforts are intended to determine whether substance abuse presents a barrier to employment.
- The most commonly used screening approaches are question and answer instruments which are designed to detect evidence of alcohol and illicit drug abuse and dependence, such as the Substance Abuse Subtle Screening Inventory (SASSI), which has been shown to be reasonably accurate in detecting problem substance use, including alcohol abuse, in a variety of populations
- TANF programs typically identify and refer far fewer clients to treatment than would be expected based on prevalence rates.



# Drug Use

- More than half the States have considered legislation that would require drug tests for TANF applicants and/or recipients, but few have enacted laws.
- These proposals vary in their content on many dimensions. Of those actually enacted, a broad, suspicionless drug testing program in Michigan had operated briefly in 1999 before being suspended by the courts.
- Arizona has been testing TANF recipients for whom they have reason to suspect substance abuse since 2009.
- Missouri and Florida each passed drug testing legislation in 2011. Missouri tests current beneficiaries for cause, while the Florida law required suspicionless testing of all applicants.
- During the initial weeks of Florida's implementation, 2 percent of TANF applicants there tested positive. Florida's law has subsequently been suspended by the courts

# Drug Use

- The most common tests detect five specific drugs (amphetamines, cocaine, marijuana, opiates and phencyclidine (PCP)); tests for additional drugs are also available but cost more.
- Testing of hair rather than urine is often promoted because it is less invasive and can detect drug use over longer time periods. Hair tests cannot detect very recent drug use but do detect use that has occurred between (approximately) 10 and 90 days prior to the test (depending on the length of the hair).
- Hair testing may more frequently result in positive results because of external (i.e. passive) exposure to drugs or chemicals.



# State Response

- During 2010 and the first half of 2011, legislators in 31 states have proposed 82 bills that would require drug tests of TANF applicants and/or recipients.
- 



# State Response

- Features differ widely among the bills.
  - Is the intent of the proposal to identify those in need of treatment or to exclude from assistance those with substance use disorders?
  - Who is tested, applicants, persons receiving assistance, or both?
  - Is testing “for cause,” (i.e. because some behavior provides a reason to suspect substance abuse) or is either everyone or a random sample tested without suspicion?
  - What consequences result from a positive test?
  - Are there procedural protections against false positive results?
  - Are there restrictions to prevent disclosure and misuse of test results?
  - Does the proposal include features intended to protect children from negative consequences of the denial of benefits?
  - Does the State or do clients pay the up-front costs of drug tests?



# State Response

- The primary challenge to drug testing is whether such testing violates the Constitution's Fourth Amendment prohibition against unreasonable searches and seizures, which prevents the indiscriminate searching of individuals.
  - Since suspicion-less testing involves no reasonable cause courts have generally ruled that drug tests should not be allowed under the Fourth Amendment.
  - Also at issue is the adequacy of due process protections provided to persons for whom a positive drug test results in the suspension of benefits.
  - The Fifth and Fourteenth Amendments require that the government make available safeguards to prevent an individual from being deprived of property through arbitrary processes or results. In the context of drug testing, due process typically includes assuring that drug tests are processed by reputable, certified labs that conform to federal specifications, conducting more accurate confirmatory
- 

# State Response

- Examples of costs used in State cost estimates include:
  - ✓ Screening and periodic re-screening
  - ✓ Purchasing the drug tests, including initial and retests
  - ✓ Laboratory fees
  - ✓ Staff time to administer the tests
    - Staff time to monitor compliance and eligibility
    - Staff time to deal with increased administrative hearings
    - Modifying facilities to accommodate the testing
    - Modifying computer programs to include drug testing in eligibility
  - ✓ Substance abuse treatment
  - ✓ Hiring a contractor to administer the tests
    - Legal fees if the law is challenged

# State Response

- An article from a magazine published by The Society for Human Resources Management reported in 2005 that, “testing an applicant or employee ranges from \$25 to \$44 for urinalysis... [while] hair follicle testing costs \$75 to \$150 per test.”
- Reports on the implementation of Florida’s drug testing policy have cited an estimate of \$30 per TANF recipient , however, the State’s drug testing pilot program in the early 2000s cost \$90 per test once staff costs and other program costs were included.



# Virginia's Story

- Legislation requiring drug testing/screening for public assistance recipients in Virginia was first introduced in 2008.
  - In 2011, 8 bills were introduced to require drug screening/testing.
- 

# Virginia's Story

- All the bills required:
  - Screening before testing.
  - Once disqualified, payments to the remaining household members are protective or vendor payments to a third party.
- Differences included:
  - Who pays for the cost of testing
    - The Department
    - The recipient
    - Not defined
- Is assistance continued for compliance with drug treatment?
- Is there a one time option to comply during the ineligibility period?
- Who administers the testing?



# Compromise Bill

- VIEW households screened at initial VIEW assessment and periodically thereafter, but not more than every 6 months.
- Those who test positive will be ineligible for assistance unless they enter and maintain full compliance with a drug treatment program.
- Eligibility for those that refuse to be tested or participate in drug treatment will be ineligible for 12 months.
- Individuals will have one chance during their 12 month ineligibility period to comply with screening, assessment or treatment.
- During the period of ineligibility, payments to the remaining eligible household members will be made as a protective or vendor payment to a third party.



# Compromise Bill

- One remaining difference between the House and Senate version is that the Senate dropped a requirement that the testing be conducted by a “substance abuse treatment practitioner licensed by the Department of Health Professions.”
- 

# Workgroup Recommendations

- In September 2012, the Department convened a group of state and local staff as well as substance abuse practitioners to discuss the drug screening/testing legislation.
  - A 2011 survey of LDSS indicated that only three percent were drug testing TANF/VIEW recipients and 47% of those were using social services staff to do the testing (95 of 120 LDSS responded).
  - LDSS are already evaluating barriers to employment, including substances abuse, because it is included in the VIEW Assessment Interview required by program guidance. Referrals are made for SA treatment, but compliance is voluntary.
  - LDSS are using a variety of tools to assess alcohol and drug use including some self developed ones. The work group recommends that a standard assessment tool be used at LDSS statewide to ensure consistency and fairness.

# Workgroup Recommendations

- The Simple Screening Instrument for Alcohol and Other Drugs (SSI-AOD) is free and does not require any training to administer. The screening can be completed as part of an interview or self-reporting questionnaire in about 15 minutes.
- The SASSI-3 (Substance Abuse Screening Inventory) takes about 15-20 minutes to administer and uses an objective scoring system to classify an individual as having either a high or low probability of having an SA dependence disorder.
  - Ninety-four percent (94%) of the people who are diagnosed as having substance use disorder are correctly classified by the SASSI-3.
  - Because there is a scoring system, there is training required; usually one day or less. There is also a cost associated; \$130 for a complete adult introductory kit which includes a manual, user's guide and 25 questionnaires and scoring sheets.
  - Whether there is a cost for training is unknown at this time. If the State were to contract for the product and training it may be able to negotiate a lower cost.

# Workgroup Recommendations

- The work group recommends that actual drug testing versus screening be conducted by an independent lab and that the State contract for services so that economic efficiencies may be achieved, chain of custody preserved, and to ensure that a valid sample is collected.
- The latter two items make it less likely that a recipient will be able to successfully challenge the results. If a urine test is used, the SA treatment participants on the work group highly recommend supervised testing, meaning that the collection of the sample is observed.

# Workgroup Recommendations

- Treatment providers also recommend testing for designer drugs i.e., Spice, bath salts (informal street name for a family of designer drugs), etc... While the ingredients themselves are not necessarily illegal the results of usage can be devastating and irreversible and include permanent brain damage.
- The SA Coordinator from the MP/NN CSB estimates that 1 of 4 pre-screenings conducted are related to designer drugs. A prescreening occurs when a CSB is called by a hospital, jail, etc... to evaluate a person for involuntary psychiatric hospitalization due to inability to care for himself/herself or is a danger to himself/herself.
- Testing for designer drugs is at an additional cost and those tests are changing constantly because new drugs are showing up on the streets daily.

# Workgroup Recommendations

- The work group recommends that if drug testing is to be completed, that it not be initiated until prior to the recipient being placed in work experience, PSP, subsidized employment and or vocational education but no later than thirty days after the initial VIEW assessment.
- Virginia Beach DSS does a voluntary drug and alcohol screening assessment for TANF/VIEW recipients in about week 3 of job search/readiness. They find that by that time they have lost 30 to 50% of the participants because they have already found a job or have simply dropped out of the program.
- Waiting would mean fewer assessments, fewer drug tests and a decreased cost to taxpayers. In 2011 eight percent (8%) of those individuals voluntarily drug tested by Virginia Beach DSS tested positive. In 2009 and 2010 those percentages were 11% and 13% , respectively.



# Workgroup Recommendations

- While Medicaid will pay for SA assessment and inpatient and outpatient treatment, resources vary from community to community and there are often waiting lists.
  - This work group recommends that if an individual is on a waiting list for treatment that they be considered in compliance and remain on the grant.
  - The providers that participated in the work group stated that it is virtually impossible to get a Medicaid recipient into an inpatient treatment program because the payment is so low. The treatment facility will accept private insurance or patient pay first which limits Medicaid recipients to outpatient services. In some cases this is not enough for them to kick their addiction.
- 



# Workgroup Recommendations

- Prior to drug testing, there must be a mechanism for the VIEW recipient to report legal drugs they are taking which could result in a false positive. The participating providers said that they require the client to bring in the pill bottles.
  - The process must include a Consent to Exchange Information form because the VIEW recipients name will be provided to a lab at the time of testing and identified as a VIEW participant for billing purposes. There may also be additional contact with treatment facilities and others.
  - All local eligibility staff are mandated reporters of child abuse and neglect. Does a positive test constitute abuse/neglect?
- 