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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1813

04/29/2013 Authored by Quam; Drazkowski; Benson, M.; Pugh; Hackbarth and others

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; requiring screening for use of controlled substances
1.3 in the MFIP and general assistance programs; making certain individuals
1.4 ineligible for MFIP and general assistance benefits; providing for rulemaking;
1.5 amending Minnesota Statutes 2012, sections 256D.024, by adding a subdivision;
1.6 256J.26, by adding a subdivision; proposing coding for new law in Minnesota
1.7 Statutes, chapters 256D; 256J.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2012, section 256D.024, is amended by adding a
1.10 subdivision to read:

1.11 Subd. 5. **Person with two or more DWI convictions.** An applicant or recipient who
1.12 has two or more DWI convictions in a period of five years shall, after an administrative
1.13 hearing under section 256D.10, be ineligible for general assistance for a period of three
1.14 years from the date of the administrative hearing decision affirming the applicant's or
1.15 recipient's ineligibility.

1.16 **EFFECTIVE DATE.** This section is effective for new applicants submitting
1.17 applications on or after July 1, 2013, and for current recipients at the time of their next
1.18 eligibility recertification on or after July 1, 2013.

1.19 Sec. 2. **[256D.025] TESTING FOR USE OF CONTROLLED SUBSTANCE.**

1.20 Subdivision 1. **Screening and testing required.** The department shall screen and
1.21 test each applicant and recipient for general assistance benefits under this chapter, except
1.22 for applicants and recipients who meet the eligibility requirements under section 256D.05,
1.23 subdivision 1, paragraph (a), clause (14), and who the department has reasonable suspicion
1.24 to believe, based on screening, engages in illegal use of controlled substances.

2.1 Subd. 2. **Reasonable suspicion.** (a) Reasonable suspicion of illegal use of
2.2 controlled substances is established when two of the following occur:

2.3 (1) the applicant or recipient has an arrest record;

2.4 (2) the local welfare agency accepts a report for investigation or family assessment
2.5 under section 626.556 alleging abuse or neglect due to substance abuse by the applicant or
2.6 recipient; and

2.7 (3) the department witnesses a behavior indicating illegal use of controlled
2.8 substances including, but not limited to:

2.9 (i) dilated pupils;

2.10 (ii) involuntary eye movements;

2.11 (iii) nausea or vomiting;

2.12 (iv) twitching;

2.13 (v) violent behavior;

2.14 (vi) odor of alcohol;

2.15 (vii) muscular incoordination;

2.16 (viii) inability to verbalize;

2.17 (ix) slurred speech;

2.18 (x) bizarre behavior;

2.19 (xi) needle marks;

2.20 (xii) possession of drug paraphernalia; or

2.21 (xiii) possession of a substance that appears to possibly be a controlled substance
2.22 or alcohol.

2.23 (b) Reasonable suspicion of illegal use of controlled substances is also established
2.24 by witnessing any two of the behaviors in paragraph (a), clause (3).

2.25 Subd. 3. **Reports of arrests.** Local law enforcement shall provide to the appropriate
2.26 county social services office once per month a list of all arrests that occurred during
2.27 the previous reporting period. The county shall use the lists provided by local law
2.28 enforcement to determine whether or not any applicant or recipient of general assistance
2.29 has an arrest record for purposes of subdivision 2 and shall transmit this information to the
2.30 department in a time and manner established by the department.

2.31 Subd. 4. **Payment for drug test.** The applicant or recipient must pay for the drug
2.32 test. The department must reimburse applicants and recipients for the cost of the drug test
2.33 when proof of a negative test for controlled substances is provided.

2.34 Subd. 5. **Ineligibility for benefits.** Any applicant or recipient who is found to have
2.35 tested positive for a controlled substance under section 152.02, which is not prescribed for
2.36 the applicant or recipient by a licensed health care provider shall, after an administrative

hearing under section 256D.10, be ineligible for general assistance for a period of three years from the date of the administrative hearing decision affirming the applicant's or recipient's ineligibility.

Subd. 6. Referral to treatment program. The department shall refer an applicant or recipient who tested positive for the use of a controlled substance under this section to an appropriate substance abuse treatment program approved by the department. Referral to a substance abuse treatment program does not obligate the state to pay for the treatment.

Subd. 7. Rulemaking. The commissioner shall adopt rules to develop the screening and testing procedures under this section.

EFFECTIVE DATE. This section is effective for new applicants submitting applications on or after July 1, 2013, and for current recipients at the time of their next eligibility recertification on or after July 1, 2013.

Sec. 3. Minnesota Statutes 2012, section 256J.26, is amended by adding a subdivision to read:

Subd. 4a. Person with two or more DWI convictions. An individual who has two or more DWI convictions in a period of five years shall, after a fair hearing under section 256J.40, be ineligible for MFIP for a period of three years from the date of the fair hearing decision affirming the individual's ineligibility.

EFFECTIVE DATE. This section is effective for new applicants submitting applications on or after July 1, 2013, and for current recipients at the time of their next eligibility recertification on or after July 1, 2013.

Sec. 4. **[256J.261] TESTING FOR USE OF CONTROLLED SUBSTANCE.**

Subdivision 1. Screening and testing required. The department shall screen and test each applicant and recipient for MFIP benefits under this chapter who the department has reasonable suspicion to believe, based on screening, engages in illegal use of controlled substances.

Subd. 2. Reasonable suspicion. (a) Reasonable suspicion of illegal use of controlled substances is established when two of the following occur:

(1) the applicant or recipient has an arrest record;

(2) the local welfare agency accepts a report for investigation or family assessment under section 626.556 alleging abuse or neglect due to substance abuse by the applicant or recipient; and

4.1 (3) the department witnesses a behavior indicating illegal use of controlled
4.2 substances including, but not limited to:

4.3 (i) dilated pupils;
4.4 (ii) involuntary eye movements;
4.5 (iii) nausea or vomiting;
4.6 (iv) twitching;
4.7 (v) violent behavior;
4.8 (vi) odor of alcohol;
4.9 (vii) muscular incoordination;
4.10 (viii) inability to verbalize;
4.11 (ix) slurred speech;
4.12 (x) bizarre behavior;
4.13 (xi) needle marks;
4.14 (xii) possession of drug paraphernalia; or
4.15 (xiii) possession of a substance that appears to possibly be a controlled substance
4.16 or alcohol.

4.17 (b) Reasonable suspicion of illegal use of controlled substances is also established
4.18 by witnessing any two of the behaviors in paragraph (a), clause (3).

4.19 Subd. 3. **Reports of arrests.** Local law enforcement shall provide to the appropriate
4.20 county social services office once per month a list of all arrests that occurred during
4.21 the previous reporting period. The county shall use the lists provided by local law
4.22 enforcement to determine whether or not any applicant or recipient of MFIP has an arrest
4.23 record for purposes of subdivision 2 and shall transmit this information to the department
4.24 in a time and manner established by the department.

4.25 Subd. 4. **Payment for drug test.** The applicant or recipient must pay for the drug
4.26 test. The department must reimburse applicants and recipients for the cost of the drug test
4.27 when proof of a negative test for controlled substances is provided.

4.28 Subd. 5. **Ineligibility for benefits.** Any applicant or recipient who is found to have
4.29 tested positive for a controlled substance under section 152.02, which is not prescribed for
4.30 the applicant or recipient by a licensed health care provider shall, after a fair hearing under
4.31 section 256J.40, be ineligible for MFIP for a period of three years from the date of the fair
4.32 hearing decision affirming the applicant's or recipient's ineligibility.

4.33 Subd. 6. **Referral to treatment program.** The department shall refer an applicant
4.34 or recipient who tested positive for the use of a controlled substance under this section to
4.35 an appropriate substance abuse treatment program approved by the department. Referral
4.36 to a substance abuse treatment program does not obligate the state to pay for the treatment.

5.1 Subd. 7. **Continued assistance for minor children.** Minor children in an assistance
5.2 unit in which a caregiver has been determined to be ineligible for MFIP under this section
5.3 continue to be eligible for MFIP assistance, but the assistance payment must be received
5.4 by a protective payee.

5.5 Subd. 8. **Rulemaking.** The commissioner shall adopt rules to develop the screening
5.6 and testing procedures under this section.

5.7 **EFFECTIVE DATE.** This section is effective for new applicants submitting
5.8 applications on or after July 1, 2013, and for current recipients at the time of their next
5.9 eligibility recertification on or after July 1, 2013.