

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1083

By: Bennett

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5  
6 AS INTRODUCED

7 An Act relating to poor persons; requiring drug  
8 screening for applicants for state-provided  
9 assistance; providing for costs; specifying  
10 requirements for drug testing; providing penalties  
11 for failure of or refusing drug testing; specifying  
12 ongoing requirements; providing exceptions from  
13 denial of benefits; providing that test results are  
14 not public record; providing that test results are  
15 subject to subpoena; providing for appeals; providing  
16 for codification; and providing an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 230.50a of Title 56, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. Upon application for any state-provided assistance,  
22 applicants, including spouses and any dependants, shall submit to a  
23 urine screening for the use of illicit drugs, to be performed by the  
24 state agency administering the state-provided assistance. The  
25 agency performing the drug screening shall pay for each test but  
26 shall deduct the cost of the drug screening from the first payment  
27 to applicants whose screening does not indicate substance abuse.

1 Provided, however, that applicants receiving benefits from the  
2 Developmental Disabilities Services Division of the Department of  
3 Human Services shall not be subject to the deduction of testing  
4 expenses from initial benefits.

5 B. Drug screening performed pursuant to this section shall:

6 1. Comply with requirements of the Health Insurance Portability  
7 and Accountability Act;

8 2. Be limited to testing for the presence of Schedule I  
9 substances as defined by the United States Drug Enforcement  
10 Administration;

11 3. Not include testing for prescription medication or  
12 medications available over the counter;

13 4. Allow applicants to document any medications, drugs, or  
14 substances consumed in the previous fourteen (14) days; and

15 5. Allow applicants to be retested if a test indicates a  
16 possible false positive result.

17 C. Any applicant failing or refusing to provide a urine  
18 specimen shall not be eligible to receive any state-provided  
19 benefits until such specimen is provided as follows:

20 1. If the failure to provide a specimen is upon initial  
21 application for benefits, the applicant shall be ineligible to  
22 receive benefits for a period of ninety (90) days; or

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1           2. If the applicant fails to provide a sample while receiving  
2 benefits, the benefits shall cease and applicant shall be ineligible  
3 to receive benefits for one (1) year from the date of the failure.

4           D. Each recipient of state-provided benefits shall be required  
5 to submit to a urine drug screening every one hundred eighty (180)  
6 days. Each recipient shall have a grace period of fourteen (14)  
7 days beyond the one hundred eighty (180) days within which to comply  
8 with the requirements of this section. Any recipient failing to  
9 comply with the provisions of this subsection shall be ineligible  
10 for further benefits until the recipient complies.

11          E. Any urine specimen testing positive for an illicit substance  
12 shall result in the ineligibility of the applicant or recipient for  
13 all state services and shall include all family members, including  
14 parents, siblings, or dependents residing within the household. Any  
15 applicant testing positive for illicit substances shall be required  
16 to reapply for benefits as provided in subsections C and D of this  
17 section.

18          F. 1. No child less than twelve (12) years of age shall be  
19 denied state-provided health coverage, such as Medicaid, as a result  
20 of any failure to comply with urine testing requirements; however,  
21 the child shall not be eligible for monetary or other nonmedical  
22 benefits such as food stamps or day care subsidies.

23          2. After initial application and approval, a child less than  
24 twelve (12) years of age shall be required to provide a urine

1 specimen every two (2) years, with a grace period of thirty (30)  
2 days.

3 3. Testing for children under the age of twelve (12) may be  
4 provided by the child's primary care physician at the discretion of  
5 the applicant.

6 4. After initial application and successful compliance with the  
7 provisions of this section, a recipient of services from the  
8 Developmental Disabilities Services Division of the Department of  
9 Human Services shall be required to provide a urine specimen every  
10 two (2) years, with a grace period of thirty (30) days.

11 5. Testing for a recipient of Developmental Disabilities  
12 Services Division benefits may be provided by the recipient's  
13 primary care physician at the discretion of the applicant.

14 6. All members of a household shall be subject to the  
15 requirements of subsection D of this section, regardless of  
16 relationship to the applicant.

17 G. 1. No individual shall be subject to criminal prosecution  
18 for failing to provide a urine specimen free from illicit  
19 substances.

20 2. If any child less than twelve (12) years of age tests  
21 positive for an illicit substance, a report shall be made to  
22 Children and Family Services Division of the Department of Human  
23 Services, and findings of a subsequent investigation may result in  
24 criminal prosecution.

1           3. Test results shall not be public records; however, the  
2 results may be subpoenaed by a court for any criminal, civil, or  
3 domestic case in which the court may find such results relevant.

4           H. 1. Any decision to deny services shall be subject to  
5 appeal, but may only be overturned if applicant can prove that the  
6 testing process was faulty in providing accurate results.

7           2. An individual who has failed to provide a urine specimen  
8 free from an illicit substance may request an appellate review to  
9 reapply for state services, if the individual can show evidence of  
10 drastically increased hardship since the application was submitted.

11           3. Any services that are reinstated as a result of an appeal  
12 shall be subject to the requirements of this section.

13           SECTION 2. This act shall become effective November 1, 2011.

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15           53-1-5867           SDR           01/03/11

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