



Random Drug Testing of TANF Recipients is Costly, Ineffective and Hurts Families

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June 16, 2009

Over the past year, legislators in at least 10 states have proposed requiring that parents applying for assistance from the Temporary Assistance for Needy Families (TANF) program be tested for drug use.¹ In some cases the legislation also proposes testing for recipients of unemployment insurance, medical assistance and food assistance. Similarly, during the debate over the federal FY 2010 budget resolution, Senator David Vitter (R-LA) offered an amendment to impose mandatory drug testing on TANF recipients and deny them eligibility if they failed a second test after treatment. While none of these proposals have become law – Vitter’s amendment was defeated by a 79-18 – this idea is likely to be brought up again in the future.

Proposals for mandatory drug testing of TANF recipients are grounded not in evidence, but in stereotypes. Universal random drug testing may well be unconstitutional – Michigan’s drug testing program was struck down in 2003 as an unconstitutional violation of the Fourth Amendment’s protection against searches without reasonable cause. Moreover, random drug testing is a costly, flawed and inefficient way of identifying recipients in need of treatment. Better alternatives exist and are already being implemented to address drug abuse among TANF beneficiaries. Because sanctions for noncompliance put vulnerable children at risk, state and federal policymakers should not enact more barriers to a safety net program that protects low-income children and families, especially during an historic economic downturn and decline in the labor market.

Drug testing is based on stereotypes

Contrary to myths, research finds little evidence that drug use is particularly prevalent among TANF beneficiaries. A study by the Substance Abuse and Mental Health Services Administration found that drug use is no different among TANF recipients than the general population.² Michigan, the only state to have imposed random drug testing on TANF beneficiaries, found that only 10 percent of recipients

¹ Legislation has been introduced in at least Arizona, California, Hawaii, Kansas, Kentucky, Louisiana, Missouri, Oklahoma, Virginia, and West Virginia. See Attachment 1.

² *Letter to Assembly Member John Benoit*, American Civil Liberties Union: March 25, 2008. [ACLU 2008]

tested positive for illicit drugs, with 3 percent testing positive for “hard” drugs, such as cocaine. These rates are consistent with the general population.³

TANF recipients do appear to be somewhat more likely to have substance *abuse* disorders than the general population. There is no consensus on the extent of the problem. Studies have put the portion of the TANF recipient population with a substance abuse disorder at anywhere between 5 and 35 percent.⁴ Welfare administrators estimated that 20 percent of TANF recipients have a substance abuse problem, and reported substance abuse is the third most significant barrier to work.⁵ A 2001 Department of Health and Human Services report estimated that between 15 and 25 percent of the TANF population may need services related to drug or alcohol abuse.⁶

The prevalence of substance abuse problems among TANF recipients may be due in large part to other mental and social problems. Substance abuse problems tend to co-occur with mental health and social problems. TANF recipients with substance abuse problems have been shown to have a high incidence of mental and social disorders.⁷ Many individuals turn to drugs and alcohol as a way to try to control symptoms of mental illness.

Drug testing not based on individualized suspicion is likely unconstitutional

Only one state- Michigan- has ever made all adult TANF recipients submit to random drug tests. In 2003, the program was struck down by the courts as an unconstitutional violation of the Fourth Amendment’s protection against unreasonable searches. Random searches are only justified if they meet a high legal standard; in general, individualized suspicion is necessary to perform a search.⁸ States may and do impose drug testing requirements on individuals who have been identified as substance abusers, or as a condition of reinstating benefits for an individual convicted of a drug-related felony. However, simply receiving cash assistance is not a basis for suspicion of substance use; the state must have some reason to believe that a particular individual might be using drugs. The U.S. Court of Appeals for the Sixth Circuit upheld the decision- *Marchwinski v. Howard*- and objected to the precedent such testing might set for any other programs that provide benefits.

³ *Welfare Drug Testing*, American Civil Liberties Union: April 15th, 2004.

⁴ Andrea Wilkins, *Substance Abuse and TANF*, National Conference of State Legislatures: April 2003.

⁵ Wilkins.

⁶ *State of Louisiana TANF Evaluation: Year 3 Evaluation of TANF Initiatives Programs*, Berkeley Policy Associates: September 2004.

⁷ Jon Morgenstern, et al., *Improving 24-Month Abstinence and Employment Outcomes for Substance Dependent Women Receiving Temporary Assistance for Needy Families with Intensive Case Management*, American Journal of Public Health: February 2009.

⁸ ACLU 2008.

Drug testing is expensive and inefficient

Chemical drug tests are a problematic way of identifying substance abuse problems. They have a high rate of “false positives,” where a test identifies a drug user with no abuse problem or barriers to employment.⁹ An evaluation of a Florida demonstration program that conducted drug tests found it produced unreliable results.¹⁰

Widespread drug testing is an inefficient use of taxpayer money. In the late 1990s, New York, Maryland, Iowa, and Louisiana also considered drug testing, but decided it was more cost-effective to use questionnaires and observational methods to detect substance abuse problems.¹¹ Administrative costs associated with drug testing are significant, and the tests themselves each cost anywhere from \$35-76.¹² In order to provide due process protections against false positives, human service agencies may have to conduct repeat tests of split samples before imposing sanctions. Few substance abusers are identified in tests, but many are tested. As a result, the cost of *catching* a drug abuser may run between \$20,000 and \$75,000 per person, as businesses and government employers have found when they have done testing.¹³ In a time of tight state budgets, it is perverse to spend limited funds in pursuit of the small number of substance abusers who are not identified through screening processes, rather than on providing actual services.

Drug testing does not distinguish between drug use and abuse

Chemical drug tests have significant shortcomings. They cannot identify alcohol or prescription drug abuse, only the specific chemicals for which samples are tested. More importantly, they cannot distinguish between occasional substance *users* and substance *abusers*. While drug abuse problems poses a barrier to work and economic advancement, drug use alone does not appear to have a significant impact on employment outcomes and government service usage rates. In a study of Florida TANF recipients, individuals who tested positively for drug use had earnings and were employed at nearly the same level as individuals who had tested negatively.¹⁴ In another study, drug use was as prevalent among employed TANF recipients as among the unemployed.¹⁵ This is also true of the general population, as most drug users have full-time employment.¹⁶

If states impose random or mandatory drug testing, some occasional users would be referred to treatment when they do not need it. Meanwhile those who are abusing alcohol or prescription drugs

⁹ Harold Pollack, Sheldon Danziger, Rukmalie Jayakody, Kristin Seefeldt, *Drug Testing Welfare Recipients—False Positives, False Negatives, Unanticipated Opportunities*, January 2001.

¹⁰ Robert E. Crew, Jr. and Belinda Creel Davis, *Assessing the Effects of Substance Abuse Among Applicants for TANF Benefits: The Outcome of a Demonstration Project in Florida*, Journal of Health & Social Policy: 2003.

¹¹ ACLU 2008.

¹² Rubenstein.

¹³ ACLU 2008.

¹⁴ Crew and Davis.

¹⁵ Pollack.

¹⁶ ACLU 2008.

would not be identified. Given the high cost of treatment programs, and the waiting lists for services in many areas, this is a poor use of resources.

Screening is an established alternative to drug testing

Many advocates for drug testing recipients imply that state human services agencies are doing nothing to try to identify substance abuse among recipients. But proven alternatives to chemical tests have been developed and are already being implemented. More than half of states responding to a survey in 2002 reported that they were screening for drug abuse. Most states use a “screen-and-refer” method of detection and treatment promotion.¹⁷ Typically a paper-and-pencil test is administered. One such test, the Substance Abuse Subtle Screening Inventory (SASSI), has an accuracy rate of between 89-97 percent, can distinguish between drug users and abusers, and can detect alcohol abuse.¹⁸ The Oklahoma Department of Human Services found that a questionnaire they administered identified 94 out of 100 drug abusers.¹⁹ Paper tests and caseworker observation also have the benefit of being less intrusive and costly than drug testing.

Still, research has shown that this method of detection can be improved. Many of the workers administering drug screening are inexperienced. 80% of states in a 2002 survey reported that they assign this task to welfare caseworkers, as opposed to mental health specialists, and nearly three-quarters reported that they provided less than 8 hours of training for workers.²⁰ Some states have developed more involved alternatives to detect drug abuse.²¹ Evaluating an intensive case management (ICM) referral system in New Jersey, researchers found that TANF recipients with a substance use disorder who participated in the ICM system were more likely to abstain from drugs and find employment than those assigned to a screen-and-refer program.²²

In addition, many states do impose drug testing requirements on TANF recipients who have been identified as at high risk of substance abuse. This may include participants who have agreed to participate in treatment in lieu of other work activities. Many states also require clean drug tests as a condition of restoring benefits to recipients who have been convicted of drug-related felonies.²³

Sanctions put vulnerable children, treatment at risk

Imposing additional sanctions on welfare recipients will have negative impacts on children. Welfare sanctions and benefit decreases have been shown to increase the risk that children will have to be

¹⁷ For examples of state practices, see this Department of Health and Human Services publication:
<http://aspe.hhs.gov/hsp/TANF-MH01/appb.htm>

¹⁸ Crew and Davis.

¹⁹ *Welfare Drug Testing*.

²⁰ Gwen Rubenstein. *The State of State Policy on TANF & Addiction: Findings from the “Survey of State Policies and Practices to Address Alcohol and Drug Problems Among TANF Recipients*. Legal Action Center: June 2002.

²¹ Wilkins.

²² Morgenstern.

²³ *After Prison: Roadblocks to Reentry, A Report on State Legal barriers Facing People With Criminal Records*. Legal Action Center: 2004.

hospitalized and will face food insecurity.²⁴ Because TANF benefits are so low (less than 1/3 the poverty level in the median state²⁵), children suffer even when only the “adult portion” of the benefit is eliminated. Without these benefits, families may be unable to meet children’s core basic needs, such as housing and clothing. The impact on children may be even greater now, with few job openings and family budgets already stretched because of the recession. Families that cannot find a job need protection from a slack labor market.

Sanctions may also interfere with the treatment process. Sanctions may deter people from reporting that they have an abuse issue and seeking treatment. Also, treatment and recovery are not a one-time event. Many people require a series of treatment sessions and relapse rates are high.²⁶ If TANF recipients are sanctioned, they may lose access to treatment programs that may take time and repeated efforts to show results.

No study has shown that denying assistance facilitates substance abuse treatment. On the contrary, the most effective drug treatment programs show that TANF recipients require *additional* support. Transportation, housing and child care support help parents overcome barriers to successful program completion. Denying access to benefits will increase barriers to economic advancement and family well-being.

Additional funding, comprehensive treatment are needed

Drug treatment is an efficient use of taxpayer money. A national study of treatment programs serving women found significant employment gains, a modest rise in income, and a modest decline in the number receiving public benefits.²⁷ The benefits of treating TANF recipients in California, according to one study, exceeded the costs by more than two and one half times.²⁸ States are seeing the benefits of treatment and investing in programs. About 60 percent of states in a 2002 survey indicated that they had invested TANF funds in alcohol and drug treatment in FY2002.²⁹ California, for instance, has put \$50 million a year in treatment, as the percentage of CALWORKS parents receiving substance abuse treatment tripled over the last decade.³⁰

Several comprehensive treatment options have also shown positive results. Drug abuse problems tend to co-occur with mental health and social problems, and low-income women with children face significant logistical barriers to completing treatment programs. More comprehensive treatment

²⁴ *The Impact of Welfare Sanctions on the Health of Infants and Toddlers*. Children’s Sentinel Nutrition Assessment Program: July 2002.

²⁵ Gene Falk, *The Temporary Assistance for Needy Families (TANF) Block Grant: Responses to Frequently Asked Questions*, Congressional Research Service: December 2008.

²⁶ Dan Bloom, *Comment on ‘Supporting Work for Low-Income People With Significant Challenges*, Urban Institute: 2009.

²⁷ Rubenstein.

²⁸ Rubenstein.

²⁹ Rubenstein.

³⁰ *Letter to Assembly Member Jim Beall*, Country Welfare Directors Association of California: March 25, 2008.

programs meet transportation, housing, and child care needs, as well as provide employment counseling and mental health services. Designed to respond to these problems, the intensive case management implemented in New Jersey was also shown to have a higher success rate, in terms of treatment entry and participation, than the more typical care coordination model.³¹ One comprehensive approach to treatment, called CASAWORKS for Families, ran in New York and North Carolina, and evaluations have shown positive results.³² Other states, including Oregon and Arizona, have set up a cross-agency collaborative to deal with the different dimensions of substance abuse. Louisiana ran a demonstration project with an intensive screening, referral, and treatment system that slightly raised employment levels and significantly improved wages.³³

Attachment 1

State	Bill Number	Session	Programs Other than TANF?
Arizona	HB 2678, also budget bill SB 1188	Second Session, 2008	
California	AB 2389	2007-8 session	
Hawaii	SB 1189	2009	SNAP
Kansas	HB 2275	2009	
Kentucky	HB 221	2008	Medicaid, SNAP
Louisiana	HB 137, HB 897	2009	
Missouri	HB 30	2009	
Oklahoma	SB390	2009	
Virginia	SB 914	2009	
West Virginia	HB 3007	2009	

³¹ Wilkins.

³² Wilkins.

³³ *State of Louisiana TANF Evaluation: Year 3 Evaluation of TANF Initiatives Programs*. Department of Health and Hospitals, Office for Addictive Disorders: September 2004.