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BILL ANALYSIS



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Senate Bill 275 (Substitute S-1 as reported by the Committee of the Whole)

House Bill 4118 (Substitute S-1 as reported)

Sponsor: Senator Joe Hune (S.B. 275)

Representative Jeff Farrington (H.B. 4118)

Senate Committee: Families, Seniors and Human Services

House Committee: Families, Children, and Seniors (H.B. 4118)

CONTENT

The bills would amend the Social Welfare Act to provide for a pilot program for suspicion-based substance abuse testing and screening as a condition of Family Independence Program (FIP) eligibility.

The bills are tie-barred.

House Bill 4118 (S-1) would do the following:

- Require the Department of Human Services (DHS) to establish and administer the program for FIP applicants and recipients.
- Require the DHS, subject to State appropriation, to conduct a screening and testing pilot program in three or more counties by April 1, 2014.
- Require the DHS to use an empirically validated screening tool, upon initial application and at annual redetermination.
- Require an applicant or recipient to take a substance abuse test if his or her screening results gave the DHS a reasonable suspicion to believe the person had illegally used a controlled substance.
- Require the DHS to pay the cost of testing if the results were negative.
- Provide that an applicant or recipient would be ineligible for assistance if he or she refused to take a substance abuse test, but could reapply after six months; and require the person to test negative in order to receive assistance if he or she reapplied.

Senate Bill 275 (S-1) would require the DHS to refer an applicant or recipient to the regional substance abuse coordinating (RSAC) agencies, and continue to provide assistance, if an individual tested positive for use of a controlled substance, it was determined that he or she used that controlled substance in violation of State law, and it was the first time that he or she tested positive under the pilot program. The costs of administering the test would have to be deducted from the applicant's or recipient's FIP payment. The DHS would have to terminate FIP assistance for individuals who failed to either participate in treatment offered by the RSAC agencies, or submit to required periodic substance abuse testing required by the RSAC agencies.

The second or subsequent time an applicant or recipient tested positive, he or she would be ineligible for FIP under the pilot program. If the individual reapplied, he or she would have to not test positive for the use of a controlled substance that was in violation of State law, to receive FIP assistance. The DHS could refer the applicant to the RSAC agencies for substance abuse treatment.

The bill would require the pilot program to terminate on March 31, 2015.

By April 30, 2015, the DHS would have to report to the Legislature regarding the screening and testing program. The report would have to include 1) the number of individuals screened, 2) the number of individuals screened for whom there was a reasonable suspicion of illegal use of a controlled substance, 3) the number of individuals who consented to submitting to a substance abuse test, 4) the number of individuals who refused to submit to a substance abuse test, 5) the number of individuals who submitted to a substance abuse test who tested positive for use of a controlled substance that was in violation of State law, 6) the number of individuals who tested negative for use of a controlled substance, 7) the number of individuals who tested positive for the use of a controlled substance that was not in violation of State law, 7) the number of individuals who tested positive for use of a controlled substance that was in violation of State law a second or subsequent time, and 8) the cost incurred by the DHS in administering the program.

Proposed MCL 400.57z (S.B. 275)
Proposed MCL 400.57y (H.B. 4118)

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

Subject to State appropriation, the bills would establish a substance abuse screening and testing pilot program for FIP, beginning in FY 2013-14. The annual net costs/savings of the program would depend on several unknown factors.

The DHS has indicated that the annual costs of a pilot program would be \$600,000. Based on the experiences of other states in setting up similar programs, the costs to implement a drug testing program statewide could be as much as \$3.4 million Gross. As the bills would require the pilot to take place in three or more counties, this analysis includes a statewide range.

Caseload savings could be possible, but would depend on the implementation of the empirically valid testing tool, as well as the percentage of recipients who tested positive for drugs and successfully completed a substance abuse treatment program. Caseload reductions due to positive tests could result in as much as \$370,000 to \$3.7 million Gross savings.

Cost Calculations. The pilot program estimate of \$600,000 was provided by the Department, while the cost estimate of \$700,000 to \$3.4 million for a statewide program is based on information from a 1999 Florida pilot program and a program implemented in Missouri in 2012.

The 1999 pilot program in Florida estimated a cost of \$30 for each drug test and a cost of \$90 per test once staff costs and other program costs were added. These costs include both the drug test itself and administrative overhead, including the use of SASSI, an empirically validated screening tool. The baseline administrative costs are estimated at approximately \$60 per screened applicant. Treatment costs were not included. Adjusted for inflation, the total costs would increase to \$120, with \$40 going toward the drug test itself. If all applicants/recipients of FIP received the formal, empirically validated screening tool, the baseline administrative costs of \$80 would be applied to each case (approximately 31,400 in FY 2013-14). The total baseline costs – excluding the costs of the drug test itself – would be approximately \$2.5 million.

Missouri's suspicion-based program was projected to cost up to \$2.6 million in FY 2012-13. The estimate includes the costs of increased staffing, administrative hearings, drug treatment, changes to electronic applications, and hiring contractors to administer the drug

tests. Of this total, approximately \$1.9 million was set aside for substance abuse treatment and \$700,000 for administrative costs.

The costs to the State of Michigan to cover false positive drug tests would total approximately \$213,500 Gross. In the Florida pilot program, the screening tool referred 22.4% of the welfare caseload to take a drug test. Less than a quarter of those who were referred by the screening tool actually tested positive for drugs (or 5.1% of the total caseload and new applicants). If this 17% difference is applied to the adult FIP caseload, approximately 5,300 cases would be referred to take a test and would test negative.

Most FIP recipients would be eligible for drug treatment services through Medicaid. A small percentage of FIP recipients might not have Medicaid coverage, however. Outpatient and residential treatment costs range between approximately \$700 and \$2,400 per person. The Department of Community Health currently prioritizes treatment for welfare recipients. It is not known whether the referral of FIP clients would result in increased costs and caseloads in the substance abuse regional centers, or whether an influx of FIP recipients would simply reduce the number of treatment slots that are available to other clients.

Potential Savings Calculations. There are several possible scenarios in terms of projecting ongoing, annual savings estimates. The State could realize approximately \$3.7 million Gross/\$743,800 GF/GP in caseload savings if the program were implemented statewide. Assuming that a pilot program would affect just 10% of the caseload, the savings could range from \$370,000 to \$3.7 million. The FIP program is funded with approximately 20.0% GF/GP and 80.0% Federal funding.

Michigan's projected monthly FIP caseload in FY 2013-14 is 44,400 and the projected average monthly payment is \$394.81. The average number of child-only FIP cases from January 2012 to June 2012 was 13,000, making the total projected number of cases that could be affected by a drug testing policy approximately 31,400. For every case that was removed from assistance for six months, the State would save approximately \$2,400. For every case that was removed from assistance for 12 months, the State would save approximately \$4,700.

If the DHS were able to identify 5.0% of FIP clients as drug users, this group would be referred to substance abuse treatment and would be able to remain on assistance assuming that the individuals maintained their eligibility requirements otherwise. The National Institute of Health estimates that between 40.0% and 60.0% of those treated for illegal drug use will relapse. If 2.5% of those who were referred to treatment again tested positive, the State would realize approximately \$3.7 million Gross/\$743,800 GF/GP in caseload savings for 12 months. In a scenario in which costs reached the higher end of the scale at \$3.4 million, the State would have to remove approximately 2.5% of the current FIP caseload and new applicants from assistance for 12 months, in order to essentially break even.

The percentage of welfare recipients who use illegal drugs is similar to – only slightly higher than – to the percentage of drug users among the rest of the general population. In 2011, the U.S. Department of Health and Human Services (HHS) issued a report on drug use among welfare recipients that consolidated data from several studies. According to the HHS, most of these studies found that between 5.0% and 10.0% of welfare recipients abuse illegal drugs. Similarly, in 1999, Michigan's pilot program found that 10.3% of FIP recipients tested positive for illicit drug use. Florida's 1999 suspicion-based pilot program found that a total of 5.1% of welfare applicants and recipients tested positive for illegal drug use over an 18-month period. If a program in Michigan followed the model of the pilot program that was introduced in Florida in 1999, it is possible that as many as 5.0% of the total FIP caseload would be identified as drug users.

Additional Unknown Factors. Potential annual savings and additional costs would be based on several unknown factors, some of which would be determined by departmental policy and others of which would be based on individual clients. Some of the key undetermined factors include: (1) Implementation of the screening tool and drug test. Factors include the accuracy of the tool, whether additional staff would have to be hired to administer the tool, and whether the drug tests were timed correctly so that they could detect an illegal substance. (2) The number of people who refused to take a test and would be ineligible for FIP. The results of Florida's 1999 pilot project showed that 21.0% of applicants and recipients refused to take the screening and therefore were not eligible for assistance. Arizona has found that a significant number of applicants declined to participate in the initial screening tool. If these precedents are a good indicator of what could be expected to take place in Michigan, the FIP caseload would be reduced significantly on the front end.

The bill would have no fiscal impact on local units of government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.