



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1778

Introduced 2/20/2015, by Sen. Kyle McCarter

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/1-10.5 new  
305 ILCS 5/12-4.4b new

Amends the Illinois Public Aid Code. Provides that as a condition of initial eligibility for medical assistance benefits provided under the State's Medical Assistance program or, subject to federal approval, benefits provided under the federal Supplemental Nutrition Assistance Program (SNAP), an applicant must pass a drug screening. Provides that as a condition of continued eligibility for such benefits, a recipient must pass random drug screenings as prescribed by the Department of Human Services. Requires the Department to (i) provide notice of drug testing to each applicant at the time of application; (ii) advise each applicant, before the test is conducted, that the applicant may, but shall not be required to, advise the agent administering the test of any prescription or over-the-counter medication the applicant is taking; (iii) ensure each applicant being tested a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the need of the State to ensure the reliability of the sample; (iii) provide any applicant who tests positive with a list of licensed substance abuse treatment providers; and other matters. Provides that an applicant who tests positive and is denied medical assistance benefits or SNAP benefits as a result may reapply for those benefits after 6 months if the applicant verifies the successful completion of a substance abuse treatment program. Exempts persons with children in the assistance unit, persons with disabilities, persons who are 65 year of age or older, or persons who reside at a facility licensed under the Nursing Home Care Act or the ID/DD Community Care Act from the drug testing requirements.

LRB099 08560 KTG 28719 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 adding Sections 1-10.5 and 12-4.4b as follows:

6 (305 ILCS 5/1-10.5 new)

7 Sec. 1-10.5. Drug screening. As a condition of initial  
8 eligibility for medical assistance benefits provided under  
9 Article V of this Code or, subject to federal approval,  
10 benefits provided under the federal Supplemental Nutrition  
11 Assistance Program (SNAP), an applicant must pass a drug  
12 screening as provided in Section 12-4.4b of this Code. As a  
13 condition of continued eligibility for medical assistance  
14 benefits provided under Article V of this Code or, subject to  
15 federal approval, SNAP benefits, a recipient must pass random  
16 drug screenings as prescribed by the Department of Human  
17 Services.

18 The substance abuse testing required under this Section  
19 shall not apply to dependent children under 18 years of age,  
20 persons with children in the assistance unit, persons with  
21 disabilities, persons 65 years of age or older, or persons who  
22 reside at a facility licensed under the Nursing Home Care Act  
23 or the ID/DD Community Care Act.

1 (305 ILCS 5/12-4.4b new)

2 Sec. 12-4.4b. Substance abuse testing.

3 (a) The Department of Human Services shall require a drug  
4 test to screen each individual who applies for benefits  
5 provided under the medical assistance program under Article V  
6 of this Code, with certain exceptions as provided in paragraph  
7 (1) of subsection (b) and in subsection (f).

8 Subject to federal approval, the Department shall require a  
9 drug test to screen each individual who applies for benefits  
10 provided under the federal Supplemental Nutrition Assistance  
11 Program (SNAP), with certain exceptions as provided in  
12 paragraph (1) of subsection (b) and in subsection (f).

13 The cost of the drug testing shall be the responsibility of  
14 the individual tested.

15 An individual who tests positive for a controlled substance  
16 as a result of a drug test required pursuant to this Section  
17 shall be ineligible to receive medical assistance benefits or  
18 SNAP benefits for one year after the date of the positive drug  
19 test, unless the individual meets the requirements of  
20 subsection (c).

21 (b) The Department shall do all of the following:

22 (1) Provide notice of drug testing to each applicant at  
23 the time of application. The notice shall advise the  
24 applicant that drug testing will be conducted as a  
25 condition for receiving medical assistance benefits or

1       SNAP benefits and that the applicant shall bear the cost of  
2       the testing. The applicant shall be advised that the  
3       required drug testing may be avoided if the applicant does  
4       not apply for medical assistance benefits or SNAP benefits.  
5       Dependent children under 18 years of age shall be exempt  
6       from the drug-testing requirement.

7           (2) Advise each applicant to be tested, before the test  
8       is conducted, that the applicant may, but shall not be  
9       required to, advise the agent administering the test of any  
10       prescription or over-the-counter medication the applicant  
11       is taking.

12           (3) Require each applicant to be tested to sign a  
13       written acknowledgment that the applicant has received and  
14       understands the notice and advice provided pursuant to  
15       paragraphs (1) and (2) of this subsection.

16           (4) Ensure each applicant being tested a reasonable  
17       degree of dignity while producing and submitting a sample  
18       for drug testing, consistent with the need of the State to  
19       ensure the reliability of the sample.

20           (5) Specify circumstances under which an applicant who  
21       fails a drug test has the right to take one or more  
22       additional tests.

23           (6) Inform an applicant who tests positive for a  
24       controlled substance and is deemed ineligible for medical  
25       assistance benefits or SNAP benefits that the applicant may  
26       reapply for those benefits one year after the date of the

1 positive drug test, unless the applicant meets the  
2 requirements of subsection (c) of this Section. If the  
3 applicant tests positive again, the applicant shall be  
4 ineligible to receive medical assistance benefits or SNAP  
5 benefits for 3 years after the date of the second positive  
6 drug test, unless the applicant meets the requirements of  
7 subsection (c) of this Section.

8 (9) Provide any applicant who tests positive with a  
9 list of licensed substance abuse treatment providers  
10 available in the area in which the applicant resides.  
11 Neither the Department nor the State shall be responsible  
12 for providing or paying for substance abuse treatment for  
13 an applicant as part of the screening conducted pursuant to  
14 this Section.

15 (c) An applicant who tests positive pursuant to this  
16 Section and is denied medical assistance benefits or SNAP  
17 benefits as a result may reapply for those benefits after 6  
18 months if the applicant verifies the successful completion of a  
19 substance abuse treatment program. An applicant shall not be  
20 considered to have tested positive for substance abuse until  
21 the sample has been retested to rule out a false positive using  
22 the same sample obtained in the original test. An applicant who  
23 has met the requirements of this subsection and reapplies for  
24 medical assistance benefits or SNAP benefits shall be required  
25 to pass an initial drug test and meet the requirements of this  
26 Section. Any drug test conducted while the applicant is

1 undergoing substance abuse treatment shall meet the standards  
2 of this subsection concerning false positives and any  
3 additional standards or requirements the Department adopts by  
4 rule concerning drug-testing as provided under subsection (e).  
5 The cost of any drug testing and substance abuse treatment  
6 provided pursuant to this Section shall be the responsibility  
7 of the individual being tested and receiving treatment. An  
8 individual who fails the drug test required pursuant to  
9 subsection (a) of this Section may reapply for benefits one  
10 time.

11 (d) Subject to federal approval, as a condition of  
12 continued eligibility for medical assistance benefits provided  
13 under Article V of this Code or benefits provided under the  
14 federal Supplemental Nutrition Assistance Program (SNAP), a  
15 recipient of such benefits must pass random drug screenings as  
16 prescribed by the Department of Human Services, with certain  
17 exceptions as provided in subsection (f). A recipient of  
18 medical assistance benefits or SNAP benefits who tests positive  
19 for a controlled substance as a result of a drug test required  
20 pursuant to this subsection shall experience an immediate  
21 termination of his or her medical assistance or SNAP benefits,  
22 and the Department shall refer the recipient to a substance  
23 abuse treatment program. Subject to federal approval, the  
24 Department shall cover the cost of substance abuse treatment  
25 for the recipient from funds that would have been used for the  
26 recipient under the medical assistance program provided under

1 Article V of this Code or under the federal Supplemental  
2 Nutrition Assistance Program (SNAP) had the recipient not  
3 tested positive for a controlled substance as a result of a  
4 drug test required pursuant to this subsection. Upon successful  
5 completion of a substance abuse treatment program as prescribed  
6 by the Department, the recipient may reapply for those  
7 benefits.

8 (e) The Department shall adopt any rules necessary to  
9 implement this Section, including rules concerning  
10 drug-testing standards and requirements.

11 (f) In addition to the exemption provided in paragraph (1)  
12 of subsection (b), the substance abuse testing required by this  
13 Section shall not apply to persons with children in the  
14 assistance unit, persons with disabilities, persons who are 65  
15 year of age or older, or persons who reside at a facility  
16 licensed under the Nursing Home Care Act or the ID/DD Community  
17 Care Act.