



# TANF Policy Brief

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

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Mandatory drug testing for parents applying for or receiving assistance from the Temporary Assistance for Needy Families (TANF) program has been proposed repeatedly over the past few years. Legislators in at least 27 states have proposed suspicionless drug testing with some even extending it to recipients of other public benefits as well, such as unemployment insurance, medical assistance and food assistance.<sup>1</sup> At the federal level, Senator David Vitter (R-LA) has offered bills and amendments multiple times to impose mandatory drug testing on TANF recipients and deny them eligibility if they failed a second test after treatment. The most recent is *The Drug Free Families Act of 2011* (S 83).<sup>2</sup> Last summer, Senator Orrin Hatch (R-UT) proposed mandatory drug testing for TANF and unemployment insurance recipients.

Proposals for mandatory drug testing of TANF recipients are based on stereotypes and not evidence. Proponents often claim that drug testing will save money; however, this is based on a false assumption that many applicants will be denied benefits. Random 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 and ultimately reduce their barriers to work. Moreover, universal random drug testing may well be unconstitutional. In 2003, Michigan's drug testing program was struck down as a violation of the Fourth Amendment's protection against searches without reasonable cause. Finally, 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

Research finds little evidence that drug use and/or abuse is particularly prevalent among TANF beneficiaries. Although recent data is limited, and definitions and populations vary,<sup>3</sup> studies have put the portion of the TANF recipient population with a substance abuse disorder at anywhere between five and 27 percent,<sup>4</sup> and those reporting illicit drug use around 20 percent or less.<sup>5</sup>

In 1996, the National Institute of Alcohol Abuse and Alcoholism found that "proportions of welfare recipients using, abusing, or dependent on alcohol or illicit drugs are consistent with proportions of both the adult U.S. population and adults who do not receive welfare."<sup>6</sup> Furthermore, Michigan, the only state to have imposed random drug testing on TANF beneficiaries, found that only 10 percent of recipients tested positive for illicit drugs, with 3 percent testing positive for "hard" drugs, such as cocaine.<sup>7</sup> These rates are consistent with its general population.<sup>8</sup> While other studies show that TANF recipients are somewhat more likely to have tried illicit drugs or have substance abuse disorders than the general population, the fact remains that a large majority of recipients do not use drugs.

For a small group of TANF recipients, substance abuse is a significant barrier to employment. One survey of TANF directors, found that they considered substance abuse the third most significant barrier to work for recipients.<sup>9</sup> States do already have policies

to identify and treat such individuals. 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.<sup>10</sup> Many individuals turn to drugs and alcohol as a way to try to control symptoms of mental illness.

## **Drug Testing is Expensive and Inefficient**

Random, widespread drug testing is an inefficient use of taxpayer money as multiple states have determined. It is costly to administer, especially when precautions are taken to prevent false results, and is not cost-effective for identifying true cases of substance abuse. Testing should be limited to cases where agencies have good cause to believe that a client may be using drugs, and where the client has acknowledged use and agreed to participate in a treatment program.

### **It is Costly to Administer Accurate Results**

Administrative costs associated with drug testing are significant, and the tests themselves each cost anywhere from \$35-76.<sup>11</sup> These costs are increased by the need to repeat tests to confirm results and avoid false positives. Therefore, in order to provide due process protections against false positives, many states such as Idaho and Utah would have to require confirmation of results, meaning human service agencies may have to conduct repeat tests of split samples before imposing sanctions.<sup>12</sup> It is not cost effective to test all applicants or participants, regardless of whether they show any indications of drug use. Since few substance abusers are identified in tests, but many are tested, the cost of catching a drug abuser may run between \$20,000 and \$77,000 per person, as businesses and government employers have found when they have done testing.<sup>13</sup>

## **Tests Do Not Distinguish Between Drug Use and Abuse**

Furthermore, chemical drug tests have more significant shortcomings as they cannot identify alcohol or prescription drug abuse, but rather 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 pose a barrier to work and economic advancement<sup>14</sup>, 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.<sup>15</sup> In another study, drug use was as prevalent among employed TANF recipients as among the unemployed.<sup>16</sup> This is also true of the general population, as most drug users have full-time employment.<sup>17</sup>

## **Screening is an Established Alternative to Random Widespread Drug Testing**

Many advocates for drug testing all recipients imply that state human services agencies are doing nothing 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.<sup>18</sup> 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.<sup>19</sup> The Oklahoma Department of Human Services found that a questionnaire they administered identified 94 out of 100 drug abusers.<sup>20</sup> Paper tests and caseworker observation also have the benefit of being less

intrusive and costly than drug testing when there is not yet a reasonable basis to require a drug test.

Still, research has shown that this method of detection can be improved. Many of the workers administering drug screening are inexperienced. Eighty percent 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 eight hours of training for workers.<sup>21</sup> Some states have developed more involved alternatives to detect drug abuse. 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.<sup>22</sup>

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. Some states also require clean drug tests as a condition of restoring benefits to recipients who have been convicted of drug-related felonies.<sup>23</sup>

## **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 *Marchwinski v. Howard*, the ACLU challenged Michigan's across-the-board testing and the district court ruled in September 2000 that it violated the recipients Fourth Amendment rights against unreasonable searches. The U.S. Court of Appeals for the Sixth Circuit reversed the decision, but then

withdrew the reversal in 2003 after rehearing the case and splitting the vote.<sup>24</sup>

Random searches are only justified if they meet a high legal standard. In general, individualized suspicion is necessary to perform a search.<sup>25</sup> 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 and the state must have some reason to believe that a particular individual may be using drugs.

## **Sanctions Put Vulnerable Children and Treatment at Risk**

Many of the proposals call for denying assistance to anyone who fails a drug test. 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 be hospitalized and face food insecurity.<sup>26</sup> Because TANF benefits are so low (less than 1/3 the poverty level in the median state<sup>27</sup>), 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 because of few job openings and family budgets already stretched due to the recession.

Sanctions may also interfere with the treatment process by deterring people from reporting 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.<sup>28</sup> 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 and 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.<sup>29</sup> The benefits of treating TANF recipients in California, according to one study, exceeded the costs by more than two and one half times.<sup>30</sup> 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.<sup>31</sup> 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.<sup>32</sup>

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 programs meet transportation, housing and child care needs, as well as provide employment counseling and mental health services. One comprehensive approach to treatment in New York and North Carolina, called CASAWORKS for Families showed positive

results.<sup>33</sup> Other states, including Oregon and Arizona, have set up a cross-agency collaborative to deal with the different dimensions of substance abuse. In Louisiana, a demonstration project with an intensive screening, referral, and treatment system slightly raised employment levels and significantly improved wages.<sup>34</sup>

## **Conclusion**

Given the high cost of treatment programs and the waiting lists for services in many areas, mandatory drug testing of all applicants or recipients of TANF benefits is a poor use of resources. 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. Despite the persistence of proposals to impose drug testing at the state and federal levels, these proposals have consistently been rejected because the data do not support the money-saving claims. In the late 1990s, New York, Maryland, Iowa, and Louisiana considered drug testing, but decided it was more cost-effective to use questionnaires and observational methods to detect substance abuse problems. Last year, Idaho's Department of Health and Welfare was commissioned to study the financial sustainability of requiring tests and is in the process of reporting that it would not save any money.

Moreover, if identified drug users are sanctioned and not provided with treatment services and basic cash assistance, these parents are less able to adequately care for their children. Thus, what might appear to be savings in TANF will actually result in increased costs in child welfare and decreased overall child wellbeing.



## Notes

<sup>1</sup> Jordan C. Budd, *Pledge Your Body for Your Bread: Welfare, Drug Testing, and the Inferior Fourth Amendment*, William & Mary Bill of Rights, Forthcoming, September 6, 2010, Available at SSRN:

<http://ssrn.com/abstract=1687871>.

<sup>2</sup> During debate of the FY 2010 budget resolution Senator Vitter (R-LA) introduced an amendment proposing mandatory drug testing for TANF recipients that failed 18-79. In addition he introduced stand-alone bills several times in past sessions including: the *Drug Free Families Act of 2008* (S 3361) and the *Drug Free Families Act of 2009* (S 97). Neither of these two bills however gained support to make it out of committee. Furthermore, only S 3361 received a co-sponsor.

<sup>3</sup> “National and state-level studies provide a wide range of estimates of the prevalence of alcohol- and drug-abuse problems among welfare recipients. Prevalence estimates vary based on the definition of substance abuse and the subpopulation studied. Some studies use a broad definition of substance use while others measure the proportion of welfare recipients with an addiction to alcohol or other drugs.” See: Gretchen Kirby and Jacquelyn Anderson, *Addressing Substance Abuse Problems Among TANF Recipients: A Guide for Program Administrators*, Mathematica Policy Research, Inc., July 19, 2000, <http://www.mathematica-mpr.com/PDFs/addresssubstance.pdf>.

<sup>4</sup> Amy Johnson and Alicia Meckstroth, *Ancillary Services to Support Welfare-to-Work*, Mathematica Policy Research, Inc., June 1998

<http://aspe.hhs.gov/hsp/isp/ancillary/front.htm>.

<sup>5</sup> See: Harold Pollack, Sheldon Danziger, Kristin Seefeldt, and Rukmalie Jayakody, *Substance Use among Welfare Recipients: Trends and Policy Responses*, Social Service Review, 2002 and *Substance Abuse and Welfare Reform*, Substance Abuse Policy Research Program, [http://www.sappr.org/knowledgeassets/knowledge\\_brief.cfm?KAID=5](http://www.sappr.org/knowledgeassets/knowledge_brief.cfm?KAID=5), accessed January 2011, which cites the 2007 National Survey of Drug Use and Health (NSDUH).

<sup>6</sup> “NIAAA Researchers Estimate Alcohol and Drug Use, Abuse, and Dependence Among Welfare Recipients”, National Institutes of Health Press Release, 1996, <http://www.nih.gov/news/pr/oct96/niaaa-23.htm>.

<sup>7</sup> Marchwinski v. Howard, 113 F. Supp. 2d 1134 (E.D. Mich. 2000), aff’d, 60 F. App’x 601 (6th Cir. 2003)

<sup>8</sup> “Table 46. Selected Drug Use, Perceptions of Great Risk, Average Annual Rates of First Use of Marijuana, Past Year Substance Dependence or Abuse, Needing But Not Receiving Treatment, and Having at Least One Major Depressive Episode in Michigan, by Age Group: Percentages, Annual Averages Based on 2007-2008 NSDUHs,” SAMHSA, Office of Applied Studies, National Survey on Drug Use and Health, 2007 and 2008, <http://oas.samhsa.gov/2k8/state/stateTabs.htm>.

<sup>9</sup> 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, [http://www.lac.org/doc\\_library/lac/publications/state\\_of\\_state.pdf](http://www.lac.org/doc_library/lac/publications/state_of_state.pdf).

<sup>10</sup> 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.

<sup>11</sup> *Drug Testing of Public Assistance Recipients as a Condition of Eligibility*, American Civil Liberties Union, April 08, 2008, <http://www.aclu.org/drug-law-reform/drug-testing-public-assistance-recipients-condition-eligibility>. [ACLU 2008].

<sup>12</sup> According to the ACLU of Utah, the US Department of Labor has guidelines for drug testing employees that are generally to be followed for other drug testing scenarios and should be for any widespread drug testing of public benefits recipients. See Workplace Drug Testing, U.S. Department of Labor, Office of the Assistant Secretary for Policy, <http://www.dol.gov/asp/programs/drugs/workingpartners/dfworkplace/dt.asp>.

<sup>13</sup> ACLU 2008.

<sup>14</sup> Research and literature available finds that women on TANF with substance abuse problems exhibit more barriers to employment than women in the general welfare population and recipients with substance abuse problems are less likely to maintain full-time employment over time. For a general overview of the literature see Lisa R. Metsch, Margaret Pereyra, Christine C. Miles, and Clyde B. McCoy, *Welfare and Work Outcomes after Substance Abuse Treatment*, Social Service Review, June 2003,

[http://ssrg.med.miami.edu/documents/Welfare\\_and\\_Work\\_Outcomes.pdf](http://ssrg.med.miami.edu/documents/Welfare_and_Work_Outcomes.pdf).

<sup>15</sup> 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.

<sup>16</sup> Harold Pollack, Sheldon Danziger, Rukmalie Jayakody, and Kristin Seefeldt, *Drug Testing Welfare Recipients – False Positives, False Negatives, Unanticipated Opportunities*, January 2001,

<http://www.fordschool.umich.edu/research/pdf/drugtest.pdf>.

<sup>17</sup> Substance Abuse and Mental Health Servs. Admin., Worker Drug Use and Workplace Policies and Programs: Results from the 1994 and 1997 National Household Survey on Drug Abuse 1 (1999).

<sup>18</sup> For examples of state practices, see this Department of Health and Human Services publication: <http://aspe.hhs.gov/hsp/TANF-MH01/appb.htm>.

<sup>19</sup> Crew and Davis 2003.

<sup>20</sup> *TANF: Focus on Substance Abuse*, Oklahoma Dept. of Human Services, March 5, 1998 as cited in ACLU 2008.

<sup>21</sup> Rubenstein.

<sup>22</sup> Morgenstern.

<sup>23</sup> Rubenstein.

<sup>24</sup> Marchwinski v. Howard, 113 F. Supp. 2d 1134 (E.D. Mich. 2000), aff’d, 60 F. App’x 601 (6th Cir. 2003)

<sup>25</sup> Budd 2010.

<sup>26</sup> *The Impact of Welfare Sanctions on the Health of Infants and Toddlers*. Children’s Sentinel Nutrition Assessment Program: July 2002.

<sup>27</sup> Gene Falk, *The Temporary Assistance for Needy Families (TANF) Block Grant: Responses to Frequently Asked Questions*, Congressional Research Service: December 2008.

<sup>28</sup> Dan Bloom, *Comment on ‘Supporting Work for Low-Income People With Significant Challenges*, Urban Institute: 2009, <http://www.urban.org/publications/411727.html>.

<sup>29</sup> Dean R. Gerstein, Robert A. Johnson, and Cindy L. Larison, *Alcohol and Other Drug Treatment for Parents and Welfare Recipients: Outcomes, Costs, and Benefits*, U.S. Department of Health and Human Services, 1997, p. 39 as cited in Rubenstein.

<sup>30</sup> Center for Substance Abuse Treatment, *Women In Treatment B National Treatment Improvement Evaluation Study*, Rockville, Maryland, 1997, as cited in Rubenstein.

<sup>31</sup> Rubenstein.

<sup>32</sup> *Letter to Assembly Member Jim Beall*, Country Welfare Directors Association of California: March 25, 2008.

<sup>33</sup> See the CASAWORKS for Families grant report: Susan Parker, *CASAWORKS(SM) For Families Helps Women Get Off Drugs and Into Jobs*, Robert Wood Johnson Foundation Grant Results, October 2009, <http://www.rwjf.org/reports/grr/045793.htm> and evaluation studies: McLellan AT, Gutman MA, Lynch KG, et al, *One year outcomes from the CASAWORKS for Families intervention for substance-abusing women on welfare*, Eval Rev, 2003; 27:656–680 as cited in Morgenstern 2009.

<sup>34</sup> *State of Louisiana TANF Evaluation: Year 3 Evaluation of TANF Initiatives Programs*. Department of Health and Hospitals, Office for Addictive Disorders: September 2004.