

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1380 Session of 2015

INTRODUCED BY KRIEGER, MILLARD, BAKER, REESE, WARD, DUNBAR, MASSER, WARNER, HEFFLEY, JAMES, CUTLER, CAUSER, METZGAR, COX, MALONEY, METCALFE, RAPP, WHITE, FEE, TOPPER, PICKETT, ZIMMERMAN, M. K. KELLER, D. COSTA, MARSICO, A. HARRIS, JOZWIAK, MAHONEY AND GILLEN, JUNE 24, 2015

REFERRED TO COMMITTEE ON HEALTH, JUNE 24, 2015

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in public assistance,
4 further providing for responsibilities and obligations of
5 department, applicants and recipients and for verification of
6 eligibility; and providing for written questionnaire to
7 screen for drug use.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 405.3(a) of the act of June 13, 1967
11 (P.L.31, No.21), known as the Public Welfare Code, is amended by
12 adding a paragraph to read:

13 Section 405.3. Responsibilities and Obligations of
14 Department, Applicants and Recipients.--(a) Subject to Federal
15 approval, only where necessary, each adult applicant or
16 recipient of cash assistance or other person who is required to
17 sign an application for assistance shall be required as a
18 condition of eligibility to enter into a mutual agreement with
19 the department that will set forth the responsibilities and

1 obligations to be undertaken by the recipient to achieve self-
2 sufficiency, the time frames within which each obligation is to
3 be completed, the penalties for failure to comply and the
4 actions to be taken by the department to support the efforts of
5 the applicant or recipient. Where appropriate, these obligations
6 shall include, but not be limited to:

7 * * *

8 (7.1) Completing a written questionnaire designed to
9 accurately determine the following:

10 (i) the likelihood of an applicant or recipient having a
11 substance use disorder involving the misuse of an illegal
12 substance; and

13 (ii) the impact of the substance use disorder on the
14 applicant or recipient's ability to complete the other
15 obligations of this section.

16 * * *

17 Section 2. Section 432.19 of the act, amended May 16, 1996
18 (P.L.175, No.35), is amended to read:

19 Section 432.19. Verification of Eligibility.--All conditions
20 of eligibility for assistance shall be verified prior to
21 authorization of assistance or during a redetermination of a
22 recipient's eligibility unless the verification is pending from
23 a third party and the applicant has cooperated in the
24 verification attempt in accordance with department standards or
25 unless certification of cooperation is pending with the domestic
26 relations section pursuant to section 432.6. Initial
27 authorization of assistance shall not be delayed more than
28 thirty days after application, unless the delay is a result of a
29 failure by the applicant or recipient to complete the written
30 questionnaire required by section 405.3(a)(7.1). If the

1 applicant establishes eligibility, assistance will be initially
2 authorized effective with the date that all conditions of
3 eligibility are verified. Except when prohibited by Federal law,
4 it shall be a condition of eligibility for assistance that an
5 applicant or recipient consent to the disclosure of information
6 about the age, residence, citizenship, employment, applications
7 for employment, income and resources of the applicant or
8 recipient which is in the possession of third parties. Such
9 consent shall be effective to empower any third party to release
10 information requested by the department. Except in cases of
11 suspected fraud, the department shall attempt to notify the
12 applicant or recipient prior to contacting a third party for
13 information about that applicant or recipient.

14 Section 3. The act is amended by adding a section to read:

15 Section 432.25. Written Questionnaire to Screen for Drug
16 Use.--(a) If the results of the questionnaire required under
17 section 405.3(a)(7.1) indicate a reasonable likelihood that the
18 applicant or recipient may have a substance use disorder
19 involving the misuse of an illegal substance, the department
20 shall require the applicant or recipient to take a drug test, at
21 the department's expense, in order to remain eligible to receive
22 public assistance.

23 (b) If an applicant or recipient refuses to complete the
24 written questionnaire required under section 405.3(a)(7.1) or
25 refuses to take a drug test after being identified by the
26 written questionnaire as an individual with a reasonable
27 likelihood of having a substance use disorder, the department
28 shall terminate the public assistance benefits for the
29 individual and the applicant or recipient may not reapply for
30 public assistance under this part for:

1 (1) six months after the first refusal to complete the
2 questionnaire or refusal to take a drug test; or

3 (2) twelve months after two or more refusals to complete the
4 questionnaire or refusals to take a drug test.

5 (c) After being screened and identified as an individual who
6 is likely to have a substance use disorder involving the misuse
7 of an illegal substance and taking and failing a drug test, the
8 applicant or recipient shall be subject to the following
9 sanctions:

10 (1) For failing a drug test the first time, an individual
11 shall be provided an assessment for addiction and provided
12 treatment for addiction as indicated by treatment criteria
13 developed by the Single State Authority on Drugs and Alcohol.
14 Assessments shall be conducted by the Single County Authority
15 (SCA) on Drugs and Alcohol or a designee. Treatment recommended
16 shall be provided by facilities licensed by the Division of Drug
17 and Alcohol Program Licensure in the Department of Health.
18 Medicaid eligibility and determinations shall be expedited to
19 ensure access to assessment and addiction treatment through
20 Medicaid. If the individual cooperates with the assessment and
21 treatment, no penalty will be imposed. If the individual refuses
22 to cooperate with the assessment and treatment, the public
23 assistance shall be suspended for six months. The department
24 must notify the individual of the failed drug test no later than
25 seven days after receipt of the drug test results, and the
26 suspension in public assistance will begin on the next scheduled
27 distribution of public assistance and for every other
28 distribution of public assistance until the suspension period
29 lapses. After suspension, an individual may apply for public
30 assistance, but shall be subject to the same eligibility

1 requirements, including completing the written questionnaire
2 required by section 405.3(a)(7.1).

3 (2) For failing a drug test the second time, the public
4 assistance to which the individual is entitled shall be
5 suspended for twelve months. The department must notify the
6 individual of the failed drug test no later than seven days
7 after receipt of the drug test results, and the suspension in
8 public assistance shall begin on the next scheduled distribution
9 of public assistance and for every other distribution of public
10 assistance until the suspension period lapses. After suspension,
11 an individual may then reapply for public assistance, but shall
12 be subject to the same eligibility requirements, including
13 completing the written questionnaire as required by section
14 405.3(a)(7.1).

15 (3) For failing a drug test the third time, the individual
16 shall no longer be entitled to public assistance.

17 (d) If an applicant or recipient tests negative for the
18 unlawful use of an illegal substance after taking a drug test,
19 the applicant or recipient remains eligible for cash assistance.

20 (e) Nothing in this section shall be construed to render
21 applicants or recipients who fail a drug test or drug retest
22 ineligible for:

23 (1) a Commonwealth program that pays the costs for
24 participating in a drug treatment program;

25 (2) a medical assistance program; or

26 (3) another benefit not included within the definition of
27 public assistance as defined under this act.

28 (f) Within six months of the effective date of this section,
29 the department shall provide the written questionnaire to the
30 county assistance offices to be used to screen applicants or

1 recipients for a substance use disorder.

2 (g) The result of the drug test given under this section
3 shall be considered a private medical record and not subject to
4 disclosure to third parties except as provided by Federal and
5 State law.

6 (h) As used in this section, the following words and phrases
7 shall have the meanings given to them in this subsection unless
8 the context clearly indicates otherwise:

9 "Drug test" means a urinalysis, blood test or another
10 scientific study of an individual's body which has been
11 conclusively found to detect the presence or prior use of an
12 illegal drug or substance and for which the accuracy has been
13 accepted in the scientific community.

14 "Public assistance" means Temporary Assistance to Needy
15 Families (TANF), Federal food stamps, general assistance and
16 State supplemental assistance.

17 Section 4. This act shall take effect in 60 days.