

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1856 Session of 2009

INTRODUCED BY SAYLOR, GINGRICH, DALLY, DENLINGER, SONNEY,
S. H. SMITH, TURZAI, PHILLIPS, MAJOR, STERN, METCALFE,
CREIGHTON, ADOLPH, BAKER, BEAR, BENNINGHOFF, BEYER, BOBACK,
BOYD, BROOKS, BURNS, CAUSER, CLYMER, CUTLER, J. EVANS,
EVERETT, FAIRCHILD, GABLER, GEIST, GILLESPIE, GRELL, GROVE,
HARHART, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. KELLER,
KNOWLES, MARSHALL, MARSICO, MICOZZIE, MILLARD, MILLER, MILNE,
MOUL, MURT, OBERLANDER, O'NEILL, PICKETT, PYLE, QUINN, RAPP,
REICHLEY, ROAE, ROCK, SOLOBAY, STEVENSON, SWANGER, TALLMAN,
VULAKOVICH AND WATSON, JULY 14, 2009

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, JULY 14,
2009

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," providing for a welfare
4 efficiency audit and for the definition of "educational
5 activity"; further providing for uniformity in administration
6 of assistance and regulations as to assistance, for
7 regulations as to employment, work-related activities and
8 training and for meeting special needs, work supports and
9 incentives; providing for documents submitted; further
10 providing for the Assistance Recipient Identification
11 Program; providing for an income eligibility verification
12 system; further providing for administration of assistance
13 and related functions; providing for a fraud detection
14 system; further providing for eligibility; providing for
15 residence requirements for county assistance offices, for
16 screening for illegal drug use, for prepayment pharmacy
17 audits, for medical assistance participating provider
18 requirements, for fraud reporting to Inspector General; and
19 abrogating a regulation.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. The act of June 13, 1967 (P.L.31, No.21), known

as the Public Welfare Code, is amended by adding a section to read:

Section 215. Welfare Efficiency Audit.--(a) Within sixty days of the effective date of this section, the Auditor General shall enter into a contract pursuant to 62 Pa.C.S. § 518 (relating to competitive selection procedures for certain services) with a certified public accountant who is also certified as a certified forensic accountant or in financial forensics or is a certified fraud examiner for the purposes of conducting a fraud examination of the department. The fraud examination shall be completed no later than one hundred eighty days after the Auditor General has entered into a contract under this subsection.

(b) (1) The Auditor General shall ensure that the fraud examination provides for all of the following:

(i) An inspection and analysis of practices and policies of the department.

(ii) An inspection of the facts and evidence of practices and policies of the department for any fraud or misconduct.

(iii) An analysis of the facts and evidence of practices and policies of the department and, specifically, how those practices and policies affect the potential for fraud or misconduct in the department.

(iv) A statistically significant sampling of recipient and provider data and information for any evidence of fraud or misconduct.

(v) Recommendations on changes to the practices and policies of the department to increase operational efficiencies.

(vi) Recommendations on changes to practices and policies of the department to deter fraud or misconduct.

1 (vii) A report of the audit to the Auditor General on the
2 findings of the fraud examination, including the information
3 specified under subparagraphs (i), (ii), (iii), (iv), (v) and
4 (vi).

5 (2) The Auditor General shall, upon receipt of the report
6 under paragraph (1), forward any findings of fraud or misconduct
7 to the appropriate legal authorities.

8 (3) Within ten days of receipt of the report by the Auditor
9 General under paragraph (1), the Auditor General shall provide a
10 copy of the report to the Majority Leader of the Senate, the
11 Minority Leader of the Senate, the Majority Leader of the House
12 of Representatives, the Minority Leader of the House of
13 Representatives, the chairman and minority chairman of the
14 Public Health and Welfare Committee of the Senate and the
15 chairman and minority chairman of the Health and Human Services
16 Committee of the House of Representatives.

17 (c) As used in this section, unless the context clearly
18 indicates otherwise:

19 "Asset misappropriation" means any theft or misuse of
20 taxpayer or Commonwealth of Pennsylvania assets or funds.

21 "Auditor General" means the Auditor General of the
22 Commonwealth.

23 "Corruption" means the use by an individual of personal
24 influence in a transaction to obtain an unauthorized benefit for
25 a person contrary to the individual's duty to the Department of
26 Public Welfare and to the Commonwealth.

27 "Department" means the Department of Public Welfare of the
28 Commonwealth.

29 "Fraud" means an act of either of the following:

30 (1) Asset misappropriation.

1 (2) Corruption.

2 "Fraud examination" means an examination of activity that
3 consists of gathering, verifying, processing, analyzing and
4 reporting on data in order to obtain facts or evidence in a
5 predefined context relating to fraud, misconduct or any other
6 violation of law and giving preventative advice. A fraud
7 examination shall be conducted in accordance with American
8 Institute of Certified Public Accountants guidelines for fraud
9 examinations.

10 "Misconduct" means any violation of law, regulations,
11 internal policies or public expectation of ethical conduct,
12 including fraudulent reporting, asset misappropriation,
13 obtaining revenue or assets by fraudulent or illegal means,
14 avoiding expenses or liabilities by fraudulent or illegal acts
15 and incurring expenses or liabilities for fraudulent or illegal
16 acts.

17 Section 2. Section 402 of the act is amended by adding a
18 definition to read:

19 Section 402. Definitions.--As used in this article, unless
20 the content clearly indicates otherwise:

21 * * *

22 "Educational activity" means participation in any post-
23 secondary education program.

24 * * *

25 Section 3. Section 403 of the act is amended by adding a
26 subsection to read:

27 Section 403. Uniformity in Administration of Assistance;
28 Regulations as to Assistance.--* * *

29 (h) No general assistance shall be paid to an individual who
30 does not comply with the citizenship requirements of section

1 1903 of the Social Security Act (49 Stat. 620, 42 U.S.C. §
2 1903).

3 Section 4. Sections 405 and 408 of the act, amended May 16,
4 1996 (P.L.175, No.35) are amended to read:

5 Section 405. Regulations as to Employment, Work-Related
6 Activities, and Training.--(a) The department shall establish
7 rules, regulations and standards for administration of the
8 requirements for employment or work-related or educational
9 activities and training for employable recipients of assistance.
10 The conditions applicable to work performed by employable
11 recipients of general assistance shall be the same as those
12 pertaining to recipients of assistance for which Federal
13 financial participation is available to the Commonwealth, except
14 that if Federal law limits the applicability of these conditions
15 to recipients for whom Federal financial participation is
16 available, the conditions pertaining to recipients of general
17 assistance shall remain applicable.

18 (b) Adult family members shall be required to participate at
19 least twenty hours per week in employment or work-related or
20 educational activities or training to be eligible for assistance
21 for subsidized child day care.

22 Section 408. Meeting Special Needs; Work Supports and
23 Incentives.--(a) The department shall take measures not
24 inconsistent with the purposes of this article; and when other
25 funds or facilities for such purposes are inadequate or
26 unavailable to provide for special needs of individuals eligible
27 for assistance; to relieve suffering and distress arising from
28 disabilities and infirmities; to promote their rehabilitation;
29 to help them if possible to become self-dependent; and, to
30 cooperate to the fullest extent with other public agencies

1 empowered by law to provide rehabilitative or similar services.

2 (b) The department may provide assistance to recipients for
3 child day care when the department has determined that without
4 such services the recipient would be exempt from compliance with
5 the conditions of the agreement of mutual responsibility or work
6 requirements or when a former recipient who is employed has
7 ceased to receive cash assistance for a reason other than a
8 sanction for noncompliance with an eligibility condition. In
9 establishing the time limits and levels of access to child day-
10 care funds, the department shall take into account availability,
11 costs and the number of assistance groups needing services
12 within the geographic area and shall seek to provide essential
13 services to the greatest number of recipients.

14 (c) The department may provide assistance to recipients for
15 transportation and work support when the department has
16 determined that without such services the recipient would be
17 exempt from compliance with the conditions of the agreement of
18 mutual responsibility or work requirements. In establishing the
19 time limits and levels of access to transportation and work
20 support, the department shall take into account availability,
21 costs and the number of recipients needing services within the
22 geographic area and shall seek to provide essential services to
23 the greatest number of recipients. The following apply:

24 (1) The department may pay a testing fee, union dues or a
25 professional fee if the test, dues or fee is a condition to
26 obtaining employment as long as the payment is not made directly
27 to a recipient.

28 (2) The department may not pay for any support services
29 other than those set forth in paragraph (1).

30 Section 5. The act is amended by adding a section to read:

1 Section 409.1. Documents Submitted.--(a) No later than
2 November 30 of each year the secretary shall submit to the State
3 Treasurer, the officers of the General Assembly and the
4 Inspector General a copy of the following documents which the
5 department submits to the Federal Department of Health and Human
6 Services under TANF for the Federal fiscal year ending September
7 30:

8 (1) Work verification plan.

9 (2) Quarterly reports submitted in accordance with 45 CFR
10 265.3 (relating to what reports must the State file on a
11 quarterly basis?).

12 (3) Annual report.

13 (4) Any other documents submitted in accordance with 45 CFR
14 Pt. 265 (relating to data collection and reporting requirements)
15 which the Commonwealth submits to the Federal Department of
16 Health and Human Services so that it can determine whether the
17 Commonwealth has met the mandatory work participation
18 requirements of TANF as set forth in 45 CFR 261.21 (relating to
19 what overall work rate must a State meet?) and 261.23 (relating
20 to what two-parent work rate must a State meet?).

21 (b) The secretary shall post a copy of the documents set
22 forth under subsection (a) on the department's Internet website
23 at the same time the secretary submits the documents to the
24 State Treasurer, the officers of the General Assembly and the
25 Inspector General.

26 (c) No later than September 30 of each year, the secretary
27 shall submit to the State Treasurer, the officers of the General
28 Assembly and the Inspector General information regarding
29 caseloads and work-related activity with respect to general
30 assistance for the fiscal year ending June 30. In addition, the

department shall post on its Internet website the information
regarding caseloads and work-related activity at the same time
that the secretary submits this information to the State
Treasurer, officers of the General Assembly and Inspector
General. The information which shall be submitted and posted may
be the type submitted by the department to the Federal
Department of Health and Human Services pursuant to 45 CFR 260
(relating to general temporary assistance for needy families
(TANF) provisions), 261 (relating to ensuring that recipients
work), 262 (relating to accountability provisions general), 263
(relating to expenditures of State and Federal TANF funds), 264
(relating to other accountability provisions) and 265 (relating
to data collection and reporting requirements).

(d) As used in this section:

"Annual report" means the report the Department of Public
Welfare files with the Federal Department of Health and Human
Services pursuant to 45 CFR 265.9 (relating to what information
must the State file annually?).

"Officers of the General Assembly" means the President pro
tempore of the Senate, the Majority Leader of the Senate, the
Minority Leader of the Senate, the chairman of the Public Health
and Welfare Committee of the Senate, the minority chairman of
the Public Health and Welfare Committee of the Senate, the
chairman of the Appropriations Committee of the Senate, the
minority chairman of the Appropriations Committee of the Senate,
the Speaker of the House of Representatives, the Majority Leader
of the House of Representatives, the Minority Leader of the
House of Representatives, the chairman of the Health and Human
Services Committee of the House of Representatives, the minority
chairman of the Health and Human Services Committee of the House

1 of Representatives, the chairman of the Appropriations Committee
2 of the House of Representatives and the minority chairman of the
3 Appropriations Committee of the House of Representatives.

4 "TANF" means as defined in 45 CFR 260.30 (relating to what
5 definitions apply under the TANF regulations?).

6 "Work verification plan" means as set forth in 45 CFR
7 261.62(b) (relating to what must a State do to verify the
8 accuracy of its work participation information?), the document
9 the Department of Public Welfare must submit to the Federal
10 Department of Health and Human Services to ensure accuracy in
11 the reporting of work activities by individuals receiving TANF.

12 Section 6. Section 414 of the act, amended June 30, 1995
13 (P.L.129, No.20), is amended to read:

14 Section 414. Assistance Recipient Identification Program.--

15 (a) The department is authorized to create, in geographic areas
16 where the department determines it to be cost effective, a
17 program to be known as the Assistance Recipient Identification
18 Program.

19 (b) The purpose of the program is to eliminate duplication
20 of assistance to recipients, to deter fraud and to assist law
21 enforcement officials in their duties.

22 (d) A person currently receiving or applying for assistance
23 shall participate in the program. The person shall be identified
24 using available technological means that shall include placing a
25 photograph upon each electronic benefits transfer card and each
26 medical assistance card and that may include, but are not
27 limited to, two-digit fingerimaging.

28 (e) The department, wherever feasible, shall work with
29 neighboring states to execute agreements between each of those
30 states and the Commonwealth to implement compatible computer

1 cross-matching identification systems.

2 (f) It is a violation for a person in the program to acquire
3 or attempt to acquire duplication of assistance.

4 (g) Absent a court order, only the department, the
5 Pennsylvania State Police and the Pennsylvania Board of
6 Probation and Parole, the chief of a local municipal police
7 department or his designee within the department, including the
8 sheriff's office in counties of the second class, and the
9 designated officials of neighboring states with whom the
10 department executes agreements under subsection (e) shall have
11 access to records under this program.

12 (h) The department shall make a report to the General
13 Assembly no later than March 1, 1996, and every two years
14 thereafter. Each report shall include:

15 (1) Caseload data before implementation of this section as
16 well as after one year for comparison purposes to judge the
17 program's effectiveness at fraud deterrence.

18 (2) Attempts at and instances of multiple enrollment by
19 persons.

20 (3) Analysis of the cost-effectiveness of the project.

21 (4) Recommendations regarding whether the program should be
22 discontinued, expanded or otherwise modified.

23 (i) As used in this section, the term "program" means the
24 Assistance Recipient Identification Program.

25 Section 7. The act is amended by adding a section to read:

26 Section 414.1. Income Eligibility Verification System.--(a)
27 The department shall establish a computerized income eligibility
28 verification system in order to eliminate duplication of
29 assistance and deter fraud.

30 (b) The department shall require that as a condition of

1 receiving assistance applicants and recipients supply their
2 social security numbers. The department shall match the social
3 security number of each applicant and recipient with the
4 following:

5 (1) Unearned income information maintained by the Internal
6 Revenue Service.

7 (2) Employer quarterly reports of income and unemployment
8 insurance benefit payment information maintained by the State
9 Wage Information Collection Agency.

10 (3) Earned income information maintained by the Social
11 Security Administration.

12 (4) Immigration status information maintained by the
13 Citizenship and Immigration Services.

14 (5) Death register information maintained by the Social
15 Security Administration.

16 (6) Prisoner information maintained by the Social Security
17 Administration.

18 (7) Public housing and section 8 payment information
19 maintained by the Department of Housing and Urban Development.

20 (8) National fleeing felon information maintained by Federal
21 Bureau of Investigation.

22 (9) Wage reporting and similar information maintained by
23 states contiguous to this Commonwealth.

24 (10) Beneficiary Data Exchange (BENDEX) Title H database
25 maintained by the Social Security Administration.

26 (11) Beneficiary Earnings Exchange Report (BEER) database
27 maintained by the Social Security Administration.

28 (12) State New Hire database maintained by the Commonwealth.

29 (13) National New Hire database maintained by the Federal
30 government.

1 (14) State Data Exchange (SDX) database maintained by the
2 Social Security Administration.

3 (15) Veterans Benefits and Veterans Medical (PARIS)
4 maintained by the Department of Veterans Affairs with
5 coordination through the Department of Health and Human
6 Services.

7 (16) Day care subsidy payments maintained by the
8 Commonwealth.

9 (17) Low Income Energy Assistance Program Reporting Utility
10 Expenses maintained by the Commonwealth.

11 (18) A database which is substantially similar to or a
12 successor of a database set forth in this subsection.

13 (19) The database of all persons who currently hold a
14 license, permit or certificate from a Commonwealth agency the
15 cost of which exceeds one thousand dollars (\$1,000).

16 (c) Notwithstanding any provision of law to the contrary,
17 the income eligibility verification system shall be utilized for
18 an applicant at the time of application for assistance and for a
19 recipient on a quarterly basis.

20 (d) The department shall notify each applicant and recipient
21 of the requirement of providing a social security number at the
22 time of application for assistance and as otherwise required
23 under the provisions of this section.

24 (e) If a significant discrepancy results between the
25 applicant's or a recipient's social security number and one or
26 more of the databases set forth in subsection (b), the
27 department shall review the applicant's or recipient's case, as
28 appropriate, and shall investigate the circumstances to confirm
29 eligibility of the applicant or recipient utilizing the
30 procedure set forth in subsection (f).

1 (f) The department shall institute the following procedure
2 to investigate the circumstances of a significant discrepancy:

3 (1) If the information discovered under subsection (b) does
4 not result in ineligibility or modification of the amount or
5 type of assistance, the department shall take no further action.

6 (2) If paragraph (1) does not apply and a significant
7 discrepancy results from the match between the applicant's or
8 recipient's social security number and one or more of the
9 databases in subsection (b), the applicant or the recipient, as
10 appropriate, shall be given an opportunity to explain the
11 discrepancy. The department shall provide written notice to the
12 applicant or recipient which shall describe in sufficient detail
13 the circumstances of the discrepancy, the opportunity to resolve
14 it, the manner in which it may be resolved and the consequences
15 of failing to take action. The explanation of the recipient or
16 applicant may be given over the telephone, as set forth in
17 subsection (i), in person or in writing. After receiving the
18 explanation, the department may request additional documentation
19 if it determines that there is a substantial risk of fraud.

20 (3) If the applicant or recipient, as appropriate, does not
21 respond to the notice, the department may deny assistance for
22 failure to cooperate, in which case the department shall provide
23 notice of intent to discontinue assistance. Eligibility for
24 assistance shall not be reestablished until the significant
25 discrepancy has been resolved.

26 (4) If an applicant or recipient disagrees with the findings
27 of the match between his or her social security number and one
28 or more database, the department shall reinvestigate the matter,
29 and if the department finds that there has been an error, the
30 department shall take immediate action to correct it and no

1 further action shall be taken. If, after investigation, the
2 department determines that there is no error, the department
3 shall determine the effect of the match on the applicant's or
4 recipient's case and take subsection (b), the department shall
5 determine the effect on the applicant's or recipient's case and
6 take appropriate action. Written notice of the department's
7 action shall be given to the applicant or recipient.

8 (5) If the applicant or recipient agrees with the findings
9 of the match between the applicant's or recipient's social
10 security number and one or more database, the department shall
11 determine the effect on the applicant's or recipient's case and
12 take appropriate action. Written notice of the department's
13 action shall be given to the applicant or recipient.

14 (6) If the findings of a match between the applicant's or
15 recipient's social security number and one or more database
16 result in no change in eligibility or overpayment, the
17 department shall take no further action.

18 (g) The department may review and investigate a case when
19 there is a match between the social security number and one or
20 more database which does not result in a significant
21 discrepancy. In such a case, the department shall utilize the
22 procedure in subsection (f).

23 (h) In no case shall the department discontinue or modify
24 the amount or type of assistance solely as a result of a match
25 between the applicant's or recipient's social security number
26 and one or more database. Nothing in this subsection shall be
27 construed to limit the right of appeal provided by law.

28 (i) The department shall establish a single Statewide toll-
29 free telephone number and call center to be used by applicants
30 and recipients in order to resolve discrepancies. The call

center shall have sufficient capacity and staff to promptly handle incoming telephone calls and the department shall assign sufficient numbers of case workers to enable the department to make prompt eligibility determinations under this section.

(j) No later than one year after the effective date of this section and every year thereafter, the department shall provide a written report to the Governor, the General Assembly and the Inspector General detailing the results achieved under this section and the amount of case closures and savings that resulted.

(k) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Significant discrepancy" means information regarding assets, income, resources or status of an applicant or recipient of assistance, derived from one or more of the databases in subsection (b), which gives the department grounds to suspect that either:

(1) an applicant or recipient is ineligible to receive assistance, under Federal or State law; or

(2) the assets, income or resources of an applicant or recipient are at least, in terms of a dollar amount, twenty-five percent greater than the dollar amount reflected in the information the department possesses about the applicant or recipient with respect to the applicant's or recipient's assets, income or resources.

"Status" means the applicant or recipient is in the United States illegally, is no longer living, is an inmate in a prison or jail or is a fleeing felon.

Section 8. Section 419 of the act is amended to read:

Section 419. Administration of Assistance and Related

1 Functions.--Each county board shall:

2 (1) Administer public assistance in the county, and
3 determine the eligibility for assistance of applicants and
4 continued eligibility for assistance of persons receiving the
5 same in accordance with law and rules, regulations and standards
6 established by the department. This paragraph includes requiring
7 photographic identification under section 414(d) before
8 providing any assistance.

9 (2) Take measures to promote the welfare and self-dependency
10 of individuals and families eligible for assistance by helping
11 them to secure rehabilitative, remedial or other constructive
12 aid, through local community resources, or in the absence or
13 inadequacy of such resources, through direct provision of such
14 aid, in accordance with rules, regulations and standards adopted
15 by the department.

16 (3) With the approval of the secretary, supervise the
17 administration of and promote any other public function related
18 to assistance, or the work of the department, or of the county
19 board, which may be committed to the county board by a political
20 subdivision of the Commonwealth.

21 Section 9. The act is amended by adding a section to read:

22 Section 422.1. Fraud Detection System.--Within one year of
23 the effective date of this section, each county shall establish
24 procedures to identify, investigate and resolve potential cases
25 of fraud, misrepresentation or inadequate documentation prior to
26 determining an applicant's eligibility for assistance and submit
27 to the department a plan describing its antifraud procedures.
28 The plan shall ensure that every case is reviewed and include
29 utilization of the income eligibility verification system
30 established in section 414.1.

Section 10. Section 432(5) of the act, amended May 16, 1996 (P.L.175, No.35), is amended to read:

Section 432. Eligibility.--* * *

(5) (i) Assistance may be granted only to or in behalf of a resident of Pennsylvania. Needy persons who do not meet the residence requirements stated in this clause and who are transients or without residence in any state, may be granted assistance up to seven days in the form of vendor payments, all in accordance with rules, regulations, and standards established by the department. For purposes of this subclause, residency is established when the person lives in this Commonwealth for at least 90 days.

(ii) Cash assistance for applicants and recipients of aid to families with dependent children who have resided in this Commonwealth for less than twelve months shall not exceed the lesser of the maximum assistance payment that would have been received from the applicant's or recipient's state of prior residence or the maximum assistance payment available to the applicant or recipient in this Commonwealth.

* * *

Section 11. The act is amended by adding sections to read:

Section 432.23. Residence Requirements for County Assistance Offices.--(a) For a county with one county assistance office, the county assistance office shall provide assistance only to a recipient who is a resident of the county.

(b) For a county with more than one county assistance office, each county assistance office shall provide assistance only to a recipient whose residence is closer to that county assistance office than to any other county assistance office in the county.

1 Section 432.24. Screening for Illegal Drug Use.--(a) The
2 department shall develop and implement a drug test and drug
3 retest program approved by the Department of Health to screen
4 applicants for and recipients of cash assistance benefits. Each
5 applicant or recipient eighteen years of age or older but under
6 sixty-five years of age must meet the requirements of this
7 section as a condition for receiving cash assistance benefits.

8 (b) Under the screening for the drug test and retest
9 program, the following apply:

10 (1) The department shall:

11 (i) Require that recipients already receiving cash
12 assistance benefits as of the effective date of this section be
13 scheduled to be tested at the time their request for assistance
14 is reviewed.

15 (ii) Develop and implement a system for randomly testing no
16 less than 20% of the individuals receiving cash assistance
17 benefits during each six-month period who are subject to testing
18 for the presence of illegal drugs under this section.

19 (iii) Compile a list of drug treatment programs throughout
20 this Commonwealth that are acceptable to the department in which
21 applicants and recipients who fail the drug test or drug retest
22 may participate without paying a fee or charge as a condition
23 for participation and take steps to develop and to encourage the
24 development of additional programs in areas where there are
25 limited drug treatment programs.

26 (iv) Notify each individual who fails a drug test for the
27 presence of illegal drugs of the availability of substance abuse
28 assistance programs in the geographical area where the
29 individual resides.

30 (v) Provide advance notice or a reasonable opportunity for

advance notice to each applicant for or recipient of cash assistance benefits of screening under this section advising that:

(A) a drug testing requirement is a condition for the receipt of cash assistance benefits;

(B) the applicant or recipient may, but is not required to, advise the administrator of the test of any prescription or other over-the-counter medication that the applicant or recipient takes; and

(C) the required testing may be avoided by not applying for or receiving cash assistance benefits.

(vi) Provide a procedure to assure each individual being tested a reasonable degree of dignity consistent with the department's need to ensure the reliability of the urine sample.

(vii) Deny cash assistance benefits to any individual who refuses to take the drug test or drug retest required by this section and terminate the cash assistance benefits of any recipient who refuses to submit to the random drug test required by this section.

(viii) Not charge applicants or recipients a fee for any drug test or drug retest conducted pursuant to this section.

(2) The department may require each applicant and recipient to sign a written acknowledgment that the applicant or recipient has received and understands the notice and advice.

(c) Any individual who is denied cash assistance benefits or whose cash assistance benefits are terminated because the individual failed to pass a drug retest after failing to pass a drug test shall be ineligible for cash assistance benefits for a 12-month period beginning with the date of the denial or termination, unless a lesser period is mandated under Federal

1 law.

2 (d) The following apply:

3 (1) No applicant who fails the drug test may be entitled to
4 cash assistance benefits until the applicant passes a drug
5 retest, regardless of whether the applicant appeals the test
6 results.

7 (2) A recipient of cash assistance benefits may continue to
8 receive cash assistance benefits for a period of not more than
9 sixty days after failing a drug test if the recipient files a
10 departmental appeal of the results of the drug test within
11 fifteen days following the administration of the test. The
12 department shall decide the appeal within this sixty-day period.

13 (3) The drug test required by this subsection shall be
14 administered by the department within sixty days after the final
15 failure to pass the drug test required under this section.

16 (4) If a recipient fails a drug test, the recipient shall be
17 deemed an applicant for purposes of any drug retest provided for
18 under this section.

19 (5) Any applicant or recipient who fails a drug test shall
20 not be eligible for cash assistance benefits until the applicant
21 or recipient completes a drug treatment program approved by the
22 department, unless participation in such a program is waived in
23 accordance with subsection (e).

24 (e) The following apply:

25 (1) The department shall waive the drug treatment
26 requirement as a condition for the receipt of cash assistance
27 benefits if there is no program acceptable to the department
28 within a reasonable geographic proximity to the residence of the
29 recipient or applicant in which the applicant or recipient can
30 participate without paying a fee or charge as a condition for

1 participation.

2 (2) This subsection shall not be construed to waive any
3 denial or termination of cash assistance benefits as a
4 consequence of failing a drug test or drug retest mandated under
5 this section.

6 (f) Nothing in this section shall be construed to render an
7 applicant or recipient who fails a drug test or drug retest
8 ineligible for a Commonwealth program that pays costs for
9 participating in a drug treatment program, for a medical
10 assistance program or for any other benefit that is not cash
11 assistance benefits.

12 (g) Testing under this section shall be limited solely to
13 the detection of the use of illegal drugs and shall not be
14 conducted or used for any other purpose. The department shall
15 not develop or implement any procedure designed to advise law
16 enforcement authorities as to whether an applicant or recipient
17 has failed a screening test under this section.

18 (h) The department shall submit an annual report on the
19 screening testing program to the President pro tempore of the
20 Senate, the Minority Leader of the Senate, the Speaker of the
21 House of Representatives and the Minority Leader of the House of
22 Representatives. The report shall include the number of
23 individuals tested, the illegal drugs tested for, the number of
24 individuals who failed drug tests and drug retests and the costs
25 associated with the testing.

26 (i) The following words and phrases, when used in this
27 section, shall have the meanings given to them in this
28 subsection unless the context clearly indicates otherwise:

29 "Cash assistance benefits" means cash benefits authorized
30 under the Federal temporary assistance to needy families program

1 or authorized as general assistance as provided for in section
2 432(3).

3 "Drug" means a controlled substance as defined in section 2
4 of the act of April 14, 1972 (P.L.233, No.64), known as "The
5 Controlled Substance, Drug, Device and Cosmetic Act."

6 "Drug retest" means a repeat of a drug test.

7 "Drug test" means a test that involves the collection of a
8 urine sample for the purpose of determining the presence of
9 drugs.

10 "Drug treatment program" means a public, nonprofit or other
11 nonpublic program which is for the assessment, treatment and
12 rehabilitation of persons who use illegal drugs which does not
13 exceed thirty days.

14 "Illegal drug" means a controlled substance as defined in
15 section 2 of the act of April 14, 1972 (P.L.233, No.64), known
16 as "The Controlled Substance, Drug, Device and Cosmetic Act."

17 "Illegal drug use" means the use of drugs in violation of the
18 act of April 14, 1972 (P.L.233, No.64), known as "The Controlled
19 Substance, Drug, Device and Cosmetic Act," or any other law.

20 Section 457.1. Prepayment Pharmacy Audits.--(a) The
21 department shall utilize auditing software for the purpose of
22 analyzing pharmacy claims to identify abnormalities or patterns
23 of misuse for further investigation prior to any medical
24 assistance pharmacy payments made to a participating pharmacy
25 provider.

26 (b) Medical assistance payments shall not be made to
27 providers for pharmacy claims if abnormalities or patterns of
28 misuse are identified.

29 (c) Medical assistance payments for pharmacy claims may be
30 made once payments are justified for pharmaceutical claims which

1 have been identified for investigation.

2 (d) Medical assistance pharmacy claims shall be made by the
3 department in a timely manner.

4 Section 1402.1. Medical Assistance Participating Provider
5 Requirements.--(a) The department shall establish a
6 computerized data matching verification system in order to
7 ensure that providers are appropriately licensed within this
8 Commonwealth and ensure that medical assistance providers submit
9 all appropriate State tax information in order to deter fraud.

10 (b) As a condition of participation in the medical
11 assistance program a provider must provide his Social Security
12 number to the department. The department shall match the Social
13 Security number of each provider with the following:

14 (1) Licensing information maintained by the Department of
15 State.

16 (2) State tax information maintained by the Department of
17 Revenue.

18 (c) Notwithstanding any provision of law to the contrary,
19 the data matching system shall be utilized for a provider at the
20 time of application to participate in the medical assistance
21 program.

22 (d) The department shall notify each provider of the
23 requirement of providing a Social Security number at the time of
24 application to participate in the medical assistance program.

25 (e) If a significant discrepancy results between the
26 provider's Social Security number and one or more of the
27 databases set forth in subsection (b), the department shall
28 review the provider's application and shall investigate the
29 circumstances to confirm eligibility of the provider to
30 participate in the medical assistance program. The department

1 shall institute the following procedure to investigate the
2 circumstances of a discrepancy:

3 (1) If the information discovered under subsection (b) does
4 not result in ineligibility for participation in the medical
5 assistance program, the department shall take no further action.

6 (2) If a discrepancy results from the match between the
7 provider's Social Security number and one or more of the
8 databases in subsection (b), the provider may explain the
9 discrepancy. The department shall provide written notice to the
10 provider, describing in sufficient detail the circumstances of
11 the discrepancy, the opportunity to resolve it, the manner in
12 which it may be resolved and the consequences of failing to take
13 action. The explanation of the provider may be given over the
14 telephone, in person or in writing. After receiving the
15 explanation, the department may request additional documentation
16 if it determines that there is a risk of fraud.

17 (3) If the provider does not respond to the notice, the
18 department may deny participation in the medical assistance
19 program for failure to cooperate, in which case the department
20 shall provide notice to the provider. Eligibility for
21 participation in the medical assistance program shall not be
22 reestablished until the discrepancy has been resolved.

23 (4) If a provider disagrees with the findings of the match
24 between the Social Security number and one or more database, the
25 department shall reinvestigate the matter. The following apply:

26 (i) If the department finds that there has been an error,
27 the department shall take immediate action to correct it; and no
28 further action shall be taken.

29 (ii) If the department determines that there is no error,
30 the department shall accept the provider's application for

1 participation in the medical assistance program.

2 (iii) Written notice of the department's action shall be
3 given to the provider.

4 (5) If the provider agrees with the findings of the match
5 between the provider's Social Security number and one or more
6 databases, the department shall not accept the provider's
7 application to participate in the medical assistance program.

8 Written notice of the department's action shall be given to the
9 provider.

10 (6) If the findings of a match between the provider's Social
11 Security number and one or more databases result in no change in
12 eligibility for participation in the medical assistance program,
13 the department shall take no further action.

14 Section 1417. Fraud Reporting to Inspector General.--(a) If
15 an employe of a county assistance office who has reason to
16 believe a recipient or applicant of public assistance is
17 committing fraud or providing false information in order to
18 receive public assistance benefits, including, but not limited
19 to, medical assistance, cash assistance and food stamps, the
20 county assistance office employe shall make a fraud report
21 directly to the Office of Inspector General.

22 (b) The county assistance employe shall not be subject to
23 any sanctions for making a fraud report.

24 Section 12. The provisions of 55 Pa. Code § 165.46(a), (c)
25 and (d) are abrogated.

26 Section 13. This act shall take effect immediately.