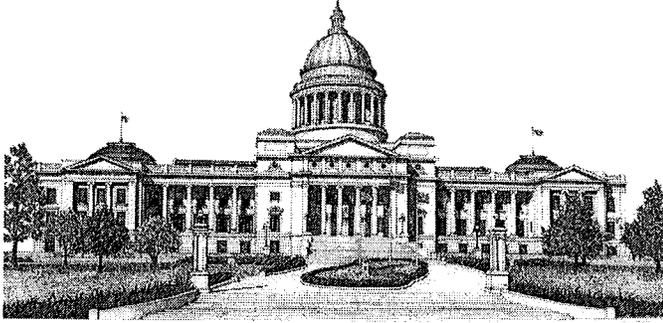


ARKANSAS REGISTER

Transmittal Sheet

* Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State
Mark Martin
State Capitol, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-3527
www.sos.arkansas.gov



For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Workforce Services

Department Temporary Assistance for Needy Families

Contact Derwin Taylor E-mail derwin.taylor@arkansas.gov Phone 501-683-1353

Statutory Authority for Promulgating Rules 42 U.S.C. 602 and Act 1205 of 2015

Rule Title: TANF Drug Screening and Drug Testing

Intended Effective Date
(Check One)

Date

Emergency (ACA 25-15-204)

Legal Notice Published

7/25/15

30 Days After Filing (ACA 25-15-204)

Final Date for Public Comment

9/08/15

Other December 31, 2015
(Must be more than 30 days after filing date.)

Reviewed by Legislative Council

Adopted by State Agency

Electronic Copy of Rule submitted under ACA 25-15-218 by:

Derwin Taylor derwin.taylor@arkansas.gov 10/09/15
Contact Person E-mail Address Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. (ACA 25-15-201 et. seq.)

Signature

(501) 682-3394

Phone Number

daryl.bassett@arkansas.gov

E-mail Address

Director

Title

10/09/15

Date

Arkansas Department of Workforce Services
Public Notice and Request for Public Comment

The Arkansas Department of Workforce Services (ADWS) is revising its TEA and Work Pays policy via policy directive in accordance with Act 1205 of 2015: Drug Screening and Testing Act of 2015. ADWS in accordance with Section 402 of the Social Security Act, is amending its Temporary Assistance for Needy Families (TANF) Program State Plan for Title IV-A of the Social Security Act.

ADWS is requesting public comment on the policy revision and amendment. The policy revision and amendment are available for review at the ADWS website. In addition, hard copies are available at TANF – 4th Floor, #2 Capitol Mall, Little Rock, Arkansas 72203.

All comments must be submitted in writing no later than COB, Tuesday, September 8, 2015. Please submit written comments to Department of Workforce Services (TANF), Attn: Derwin Taylor, PO Box 2981, Little Rock, Arkansas 72203 or derwin.taylor@arkansas.gov.



2 Capitol Mall
P.O. Box 2981
Little Rock, AR 72203
dws.arkansas.gov

Asa Hutchinson
Governor
Daryl E. Bassett
Director

October 9, 2015

Donna Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
One Capitol Mall, Legal Services 5th floor
Little Rock, AR 72201

Dear Ms. Davis:

Please utilize this letter as the Department of Workforce Services' final filing for proposed amendment of the Arkansas Temporary Assistance for Needy Families (TANF) State Plan and TEA and Work Pays Policy Directive related to Drug Screening and Drug Testing.

The comment period ended September 8, 2015. There were no comments submitted regarding the amendment of the TANF State Plan or Policy Directive from the public.

Included in this package is the markup indicating the initial changes for the TANF State Plan and Policy Directive. The final version related to the July 24, 2015 initial filing submission as well as the final Questionnaire and Financial Impact Statement. We are requesting the proposed amendment and policy directive placed on the November 2015 agenda for Committee review and approval.

If you have any questions or comments, please contact Derwin Taylor, DWS Program Operations Manager, at (501) 683-1353 or via email at derwin.taylor@arkansas.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daryl Bassett', is written over a light grey horizontal line.

Daryl Bassett
Director

dt

Enclosures

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Department of Workforce Services
DIVISION Temporary Assistance for Needy Families
DIVISION DIRECTOR Phil Harris
CONTACT PERSON Derwin Taylor
ADDRESS PO BOX 2981, Little Rock, AR 72203
PHONE NO. 501-683-1353 FAX NO. 501-683-1531 E-MAIL derwin.taylor@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Derwin Taylor
PRESENTER E-MAIL derwin.taylor@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

1. What is the short title of this rule? TANF Drug Screening and Drug Testing
2. What is the subject of the proposed rule? Drug Screening and Drug Testing two year pilot program for the TANF program
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. 42 U.S.C. 602 and Act 1205 of 2015
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? NA

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. Drug screening of TEA and Work Pays applicants and current recipients that are otherwise eligible during their respective determination or redetermination and based on screening, determine whether there is reasonable cause to believe the applicant engages in the use of drugs shall be conducted after December 31, 2015. If the result of the drug screening indicates a reasonable suspicion to believe that the applicant or recipient has engaged in the use of drugs, then the applicant or recipient shall be required to take a drug test.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Act 1205 of 2015

7. What is the purpose of this proposed rule? Why is it necessary? Meet the requirements of Act 1205 of 2015 regarding Drug Screening and Drug Testing pilot program for the TANF program.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://dws.arkansas.gov/Programs/TANF/PublicNotice.htm>

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

09/08/15

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

12/31/15

12. Do you expect this rule to be controversial? Yes No

If yes, please
explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?
Please provide their position (for or against) if known.
-

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Workforce Services
DIVISION Temporary Assistance for Needy Families
PERSON COMPLETING THIS STATEMENT Derwin Taylor
TELEPHONE NO. 501-683-1353 **FAX NO.** 501-683-1351 **EMAIL:** derwin.taylor@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE TANF Drug Screening and Drug Testing

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
NA
- (b) The reason for adoption of the more costly rule;
NA
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
NA
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
NA

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue NA
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Next Fiscal Year

General Revenue NA
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0

Total 0

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds \$ 968,500.00
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$968,500.00

General Revenue _____
Federal Funds \$1,397,000.00
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$1,397,000.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 80.00

\$ 80.00

Cost would be the outcome of a positive drug test result for an applicant or current recipient

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 968,500.00

\$ 1,397,000.00

This cost would be the cost of the program utilizing federal grant funds with a reduction in overall grant funds.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:

- (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
- (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Written response to comply with Ark. Code Ann. 25-15-204(e)(4)

Below are responses specifically related to question 7 of the Financial Impact Statement.

1. The basis and purpose of the rule is to meet the requirements of Act 1205 of 2015 regarding Drug Screening and Drug Testing pilot program for the TANF program.
2. As outline in Act 1205 of 2015, the proposed rule seeks to drug screen applicants and recipients that live near other states that require drug screening or drug testing as a requirement to receive TANF benefits
3. Act 1205 of 2015 requires the pilot program at a minimum to include applicants and recipients in the following bordering Counties: Mississippi, Missouri, Oklahoma, Tennessee and other states bordering Arkansas with a drug screening or drug testing program for the TANF program. This rule would allow the agency to accomplish this requirement.
4. The alternative would be not to drug screen or drug test applicants and recipients
5. If there are any public comments, they will not be available until the comment period ends September 8, 2015.
6. The proposed rule seeks to enhance existing rules regarding the receipt of TANF benefits to comply with Act 1205 of 2015.
7. This is a two year pilot program with an annual reporting requirement regarding the status of the program with specific reporting requirements outlined in Act 1205 of 2015.

SUMMARY OF CHANGES

Drug screening of TEA and Work Pays applicants and current recipients that are otherwise eligible during their respective determination or redetermination based on screening whether there is reasonable cause to believe the applicant engages in the use of drugs shall be conducted after December 31, 2015. If the result of the drug screening indicates a reasonable suspicion to believe that the applicant or recipient has engaged in the use of drugs, then the applicant or recipient shall be required to take a drug test.

The only changes made after the initial filing were adding the Policy Directive number TEA 15-02 and the staff to contact if there are inquiries related to the policy directive.

Section 14 Drug Screening and Drug Testing Pilot Program

Two year pilot program for drug screening of all TEA and Work Pays applicants and current recipients that are otherwise eligible shall be conducted after December 31, 2015, in accordance with Arkansas Act 1205 of 2015. During their respective eligibility determination or redetermination, the drug screening will be used to determine whether there is reasonable cause to believe the applicant or current recipient engages in the use of drugs. The TEA and Works Pays drug screening and testing program is separate from any employer-required drug screening and/or drug testing. Drug testing information shall be kept confidential.

14.1 Drug Screening

Applicants and recipients that are otherwise eligible shall submit a completed drug screening questionnaire as a part of the eligibility determination or redetermination for TEA and Work Pays benefits. Refusal and/or failure, without good cause, to submit a completed drug screening questionnaire shall result in denial of the application or ineligibility of recipient.

If the result of the drug screening indicates a reasonable suspicion to believe that the applicant or recipient has engaged in the use of drugs, then the applicant or recipient shall be required to take a drug test.

14.2 Exemption from Drug Screening and Testing Requirements

The following are exempt from the drug screening and testing requirement:

- A dependent child under eighteen (18) years of age unless the dependent child is a parent who is also an applicant for the TEA and Work Pays Programs and who does not live with a parent, legal guardian, or other adult caretaker relative.
- An entity or individual participating in the Career Pathways Program or Community Investment Initiative under the TEA and Work Pays Programs.

14.3 Drug Testing and Treatment

If the applicant or recipient that is otherwise eligible tests positive for drugs, the drug testing entity will administer a confirmation test, which re-tests the same urine sample from the initial positive test. The results of the confirmation test will determine whether the program refers the applicant or recipient for a substance abuse evaluation and treatment. The applicant or recipient will be able to present a prescription for any medication she/he is taking to the drug testing entity for review in conjunction with any positive test results.

14.4 Disqualification Related to Drug Testing and Treatment Requirements

A refusal to take a drug test shall result in the applicant's or recipient's ineligibility for TEA and Work Pays benefits for six (6) months.

If the applicant that is otherwise eligible complies with drug testing and/or treatment requirements, the applicant may be eligible for TEA and Work Pays benefits. The applicant or recipient complying with the substance abuse evaluation and treatment/recovery plan may continue to receive benefits for duration of the program treatment not to exceed six (6) months.

After the six (6) months of treatment or disqualification, the applicant or recipient that is otherwise eligible will be re-tested. If the applicant or recipient tests positive for drugs in a subsequent drug test, validated by a confirmation test, the applicant or recipient that is otherwise eligible shall be ineligible to receive TEA and Work Pays benefits for six (6) months from the date of the positive confirmation test.

14.5 Designating a Protective Payee

If an applicant or recipient that is otherwise eligible and is found ineligible to receive TEA and Work Pays benefits as a result of a positive drug test or failure to begin, participate in, and/or complete the drug treatment/recovery support resource program, that applicant or recipient shall not be eligible for benefits and removed from the benefit unit. However, the dependent child's eligibility for TEA and Work Pays benefits shall not be affected.

ADWS or authorized agency shall designate a protective payee, either a caretaker relative or legal guardian of the child, to receive the dependent child's TEA benefits. No person who is the applicant for or recipient that is otherwise eligible for TEA and Work Pays benefits and tests positive for the use of drugs shall serve as a protective payee.

14.6 Appeal Drug Screening and Drug Testing

An applicant or recipient that is otherwise eligible may appeal any denial of eligibility for TEA and Work Pays benefits as a result of drug screening or drug testing in accordance with appeal procedures in the TEA Policy manual.

Manual Transmittal

Arkansas Department of Workforce Services Temporary Assistance for Needy Families

Policy Form Policy Directive Issuance Number: TEA 15-02

Transitional Employment Assistance Manual Issuance Date: December 31, 2015

Expiration Date: December 31, 2017

From: Phil Harris,
Assistant Director, Temporary Assistance for Needy Families

Subj: TEA Policy Manual

TWO YEAR PILOT DRUG SCREENING AND DRUG TESTING PROGRAM

Drug Screening

Two year pilot program for drug screening of all TEA and Work Pays applicants and current recipients that are otherwise eligible shall be conducted after December 31, 2015, in accordance with Arkansas Act 1205 of 2015. During their respective eligibility determination or redetermination, the drug screening will be used to determine whether there is reasonable cause to believe the applicant or current recipient engages in the use of drugs. The TEA and Works Pays drug screening and testing program is separate from any employer-required drug screening and/or drug testing. Drug testing information shall be kept confidential in accordance with Act 1205 of 2015.

Applicants and recipients that are otherwise eligible shall submit a completed drug screening questionnaire as a part of the eligibility determination or redetermination for TEA and Work Pays benefits. Refusal and/or failure, without good cause, to submit a completed drug screening questionnaire shall result in denial of the applicant's application or denial of continued benefits.

The following are exempt from the drug screening and testing requirement:

- A dependent child under eighteen (18) years of age unless the dependent child is a parent who is also an applicant for the TEA and Work Pays Programs and who does not live with a parent, legal guardian, or other adult caretaker relative.

“Caretaker relative” means any of the following individuals living with a minor child:

- ❖ A parent or stepparent;
- ❖ A grandparent;

- ❖ A sibling, half-sibling, or stepsibling;
 - ❖ An aunt or uncle of any degree;
 - ❖ A first cousin, nephew, or niece; and
 - ❖ A relative by adoption within the previously named classes.
- An entity or individual participating in the Career Pathways Program or Community Investment Initiative under the TEA and Work Pays Programs.

If the result of the drug screening indicates a reasonable suspicion to believe that the applicant or recipient has engaged in the use of drugs, then the applicant or recipient shall be required to take a drug test.

Cooperation with the Drug Testing Process

A refusal by an applicant or recipient that is otherwise eligible to take a drug test shall result in lack of eligibility for program benefits for six (6) months.

If the disqualified applicant or recipient that is otherwise eligible reapplies for the TEA and Work Pays program the applicant shall submit to a drug test.

An applicant or recipient that is otherwise eligible shall not be denied TEA and Work Pays Program benefits on the basis of failing a drug test if the applicant or recipient that is otherwise eligible has a current and valid prescription for the drug in question.

The results of the drug confirmation test shall be used to determine final eligibility for TEA and Work Pays Program benefits.

Referral for Substance Abuse Evaluation, Treatment and Ineligibility for Benefits

If the results of the drug confirmation test indicate usage of drugs, the Workforce Specialist shall refer the applicant or recipient that is otherwise eligible for a substance abuse evaluation to determine the appropriate treatment plan and/or recovery support group or resource.

If the applicant or recipient that is otherwise eligible is determined not to need any drug treatment or drug recovery support after the substance abuse evaluation is conducted, the applicant or recipient shall be exempt from the drug treatment requirements. The applicant or recipient shall continue to be eligible for the TEA and Work Pays program benefits and move forward with the eligibility determination based on program requirements.

If the applicant or recipient that is otherwise eligible is determined to need drug abuse treatment and/or recovery support after the substance abuse evaluation, the Workforce Specialist in coordination with the entity performing the substance abuse evaluation, shall refer the applicant or recipient to an appropriate drug treatment facility and/or recovery support group or resource to begin the drug treatment/recovery support plan. The applicant or recipient that is otherwise eligible shall have ten (10) business days after a referral for treatment is made, to provide the Workforce Specialist any of the following, as required under the drug treatment plan:

1. Verification of enrollment in an approved drug treatment program;

2. Verification of placement on a waiting list for an approved drug treatment program; or
3. Verification of attendance at approved recovery support resource meeting.

If an applicant or recipient that is otherwise eligible is placed on a waiting list for enrollment in an approved drug treatment program, the applicant or recipient will continue to receive benefits during the waiting list period if applicant or recipient is not eligible for immediate enrollment in any other comparable drug treatment program.

The applicant or recipient that is otherwise eligible shall receive benefits for the duration of the drug treatment period, not to exceed six (6) months. Failure to comply with the treatment plan will result in case closure in accordance with TEA policy 3300.

The drug treatment period shall begin with the date of the first treatment session in the drug treatment program or the first date of attendance at a drug recovery support group/resource meeting.

In order to receive program benefits for the duration of the drug treatment program, not to exceed six (6) months, the applicant or recipient that is otherwise eligible must provide the Workforce Specialist with documentation of ongoing compliance with the drug treatment program or recovery support resource that verifies attendance and participation in the program. This documentation shall be provided biweekly.

In the event the drug treatment plan requires more than six (6) months of care, the applicant or recipient that is otherwise eligible may submit to a drug test after six (6) months of treatment to determine the applicant's or recipient's continued eligibility for TEA or Work Pays program benefits.

After the six (6) months of care or disqualification, if the applicant that is otherwise eligible tests positive for drugs in a subsequent drug test, validated by a confirmation test, the applicant shall be ineligible to receive TEA and Work Pays program benefits for one (1) year from the date of the positive confirmation test.

The Workforce Specialist shall determine whether an applicant or recipient that is otherwise eligible has good cause for failure to begin, participate in, and/or complete the drug treatment/recovery support resource program by considering the applicant's or recipients circumstances, whether failure to comply is the result of circumstances beyond the applicant's or recipient's control and the requirements of the applicant's or recipient's drug treatment and/or recovery support program.

If the Workforce Specialist determines that good cause exists, the Workforce Specialist and TEA Supervisor shall work in conjunction with the substance abuse evaluation entity and/or the drug treatment program to amend the applicant's or recipient's drug treatment plan so that the applicant or recipient that is otherwise eligible is able to complete the requirements of the drug treatment plan consistent with his/her abilities.

If an applicant or recipient that is otherwise eligible is found ineligible to receive TEA program benefits as a result of a positive drug test or failure to begin, participate in, and/or complete the drug treatment/recovery support resource program, that applicant or recipient shall not be eligible for benefits and shall be removed from the benefit unit. The dependent child's eligibility for the TEA program shall not be affected.

ADWS or authorized agency shall designate a protective payee, either a caretaker relative or legal guardian of the child, to receive the dependent child's TEA program benefits. No person who is the applicant for TEA benefits and tests positive for the use of drugs shall serve as a protective payee.

An applicant or recipient that is otherwise eligible may appeal any denial of eligibility for TEA and Work Pays benefits as a result of drug screening or drug testing in accordance with appeal procedures.

Inquiries to: Derwin Taylor, TEA Policy Unit, 501-683-1353
derwin.taylor@arkansas.gov

Cristina Roberts, TEA Policy Unit, 501-683-5344
cristina.roberts@arkansas.gov

Helen Davis, TEA Policy Unit, 501-683-5341
helen.davis@arkansas.gov

Tammy Hull-Richardson, TEA Policy Unit, 501-682-3011
tammy.h.richardson@arkansas.gov

Section 14 Drug Screening and Drug Testing Pilot Program

Two year pilot program for drug screening of all TEA and Work Pays applicants and current recipients that are otherwise eligible shall be conducted after December 31, 2015, in accordance with Arkansas Act 1205 of 2015. During their respective eligibility determination or redetermination, the drug screening will be used to determine whether there is reasonable cause to believe the applicant or current recipient engages in the use of drugs. The TEA and Works Pays drug screening and testing program is separate from any employer-required drug screening and/or drug testing. Drug testing information shall be kept confidential.

14.1 Drug Screening

Applicants and recipients that are otherwise eligible shall submit a completed drug screening questionnaire as a part of the eligibility determination or redetermination for TEA and Work Pays benefits. Refusal and/or failure, without good cause, to submit a completed drug screening questionnaire shall result in denial of the application or ineligibility of recipient.

If the result of the drug screening indicates a reasonable suspicion to believe that the applicant or recipient has engaged in the use of drugs, then the applicant or recipient shall be required to take a drug test.

14.2 Exemption from Drug Screening and Testing Requirements

The following are exempt from the drug screening and testing requirement:

- A dependent child under eighteen (18) years of age unless the dependent child is a parent who is also an applicant for the TEA and Work Pays Programs and who does not live with a parent, legal guardian, or other adult caretaker relative.
- An entity or individual participating in the Career Pathways Program or Community Investment Initiative under the TEA and Work Pays Programs.

14.3 Drug Testing and Treatment

If the applicant or recipient that is otherwise eligible tests positive for drugs, the drug testing entity will administer a confirmation test, which re-tests the same urine sample from the initial positive test. The results of the confirmation test will determine whether the program refers the applicant or recipient for a substance abuse evaluation and treatment. The applicant or recipient will be able to present a prescription for any medication she/he is taking to the drug testing entity for review in conjunction with any positive test results.

14.4 Disqualification Related to Drug Testing and Treatment Requirements

A refusal to take a drug test shall result in the applicant's or recipient's ineligibility for TEA and Work Pays benefits for six (6) months.

If the applicant that is otherwise eligible complies with drug testing and/or treatment requirements, the applicant may be eligible for TEA and Work Pays benefits. The applicant or recipient complying with the substance abuse evaluation and treatment/recovery plan may continue to receive benefits for duration of the program treatment not to exceed six (6) months.

After the six (6) months of treatment or disqualification, the applicant or recipient that is otherwise eligible will be re-tested. If the applicant or recipient tests positive for drugs in a subsequent drug test, validated by a confirmation test, the applicant or recipient that is otherwise eligible shall be ineligible to receive TEA and Work Pays benefits for six (6) months from the date of the positive confirmation test.

14.5 Designating a Protective Payee

If an applicant or recipient that is otherwise eligible and is found ineligible to receive TEA and Work Pays benefits as a result of a positive drug test or failure to begin, participate in, and/or complete the drug treatment/recovery support resource program, that applicant or recipient shall not be eligible for benefits and removed from the benefit unit. However, the dependent child's eligibility for TEA and Work Pays benefits shall not be affected.

ADWS or authorized agency shall designate a protective payee, either a caretaker relative or legal guardian of the child, to receive the dependent child's TEA benefits. No person who is the applicant for or recipient that is otherwise eligible for TEA and Work Pays benefits and tests positive for the use of drugs shall serve as a protective payee.

14.6 Appeal Drug Screening and Drug Testing

An applicant or recipient that is otherwise eligible may appeal any denial of eligibility for TEA and Work Pays benefits as a result of drug screening or drug testing in accordance with appeal procedures in the TEA Policy manual.

Manual Transmittal

Arkansas Department of Workforce Services Temporary Assistance for Needy Families

Policy Form Policy Directive Issuance Number: TEA 15-02

Transitional Employment Assistance Manual Issuance Date: December 31, 2015

Expiration Date: December 31, 2017

From: Phil Harris,
Assistant Director, Temporary Assistance for Needy Families

Subj: TEA Policy Manual

TWO YEAR PILOT DRUG SCREENING AND DRUG TESTING PROGRAM

Drug Screening

Two year pilot program for drug screening of all TEA and Work Pays applicants and current recipients that are otherwise eligible shall be conducted after December 31, 2015, in accordance with Arkansas Act 1205 of 2015. During their respective eligibility determination or redetermination, the drug screening will be used to determine whether there is reasonable cause to believe the applicant or current recipient engages in the use of drugs. The TEA and Works Pays drug screening and testing program is separate from any employer-required drug screening and/or drug testing. Drug testing information shall be kept confidential in accordance with Act 1205 of 2015.

Applicants and recipients that are otherwise eligible shall submit a completed drug screening questionnaire as a part of the eligibility determination or redetermination for TEA and Work Pays benefits. Refusal and/or failure, without good cause, to submit a completed drug screening questionnaire shall result in denial of the applicant's application or denial of continued benefits.

The following are exempt from the drug screening and testing requirement:

- A dependent child under eighteen (18) years of age unless the dependent child is a parent who is also an applicant for the TEA and Work Pays Programs and who does not live with a parent, legal guardian, or other adult caretaker relative.

"Caretaker relative" means any of the following individuals living with a minor child:

- ❖ A parent or stepparent;
- ❖ A grandparent;

- ❖ A sibling, half-sibling, or stepsibling;
 - ❖ An aunt or uncle of any degree;
 - ❖ A first cousin, nephew, or niece; and
 - ❖ A relative by adoption within the previously named classes.
- An entity or individual participating in the Career Pathways Program or Community Investment Initiative under the TEA and Work Pays Programs.

If the result of the drug screening indicates a reasonable suspicion to believe that the applicant or recipient has engaged in the use of drugs, then the applicant or recipient shall be required to take a drug test.

Cooperation with the Drug Testing Process

A refusal by an applicant or recipient that is otherwise eligible to take a drug test shall result in lack of eligibility for program benefits for six (6) months.

If the disqualified applicant or recipient that is otherwise eligible reappplies for the TEA and Work Pays program the applicant shall submit to a drug test.

An applicant or recipient that is otherwise eligible shall not be denied TEA and Work Pays Program benefits on the basis of failing a drug test if the applicant or recipient that is otherwise eligible has a current and valid prescription for the drug in question.

The results of the drug confirmation test shall be used to determine final eligibility for TEA and Work Pays Program benefits.

Referral for Substance Abuse Evaluation, Treatment and Ineligibility for Benefits

If the results of the drug confirmation test indicate usage of drugs, the Workforce Specialist shall refer the applicant or recipient that is otherwise eligible for a substance abuse evaluation to determine the appropriate treatment plan and/or recovery support group or resource.

If the applicant or recipient that is otherwise eligible is determined not to need any drug treatment or drug recovery support after the substance abuse evaluation is conducted, the applicant or recipient shall be exempt from the drug treatment requirements. The applicant or recipient shall continue to be eligible for the TEA and Work Pays program benefits and move forward with the eligibility determination based on program requirements.

If the applicant or recipient that is otherwise eligible is determined to need drug abuse treatment and/or recovery support after the substance abuse evaluation, the Workforce Specialist in coordination with the entity performing the substance abuse evaluation, shall refer the applicant or recipient to an appropriate drug treatment facility and/or recovery support group or resource to begin the drug treatment/recovery support plan. The applicant or recipient that is otherwise eligible shall have ten (10) business days after a referral for treatment is made, to provide the Workforce Specialist any of the following, as required under the drug treatment plan:

1. Verification of enrollment in an approved drug treatment program;

2. Verification of placement on a waiting list for an approved drug treatment program; or
3. Verification of attendance at approved recovery support resource meeting.

If an applicant or recipient that is otherwise eligible is placed on a waiting list for enrollment in an approved drug treatment program, the applicant or recipient will continue to receive benefits during the waiting list period if applicant or recipient is not eligible for immediate enrollment in any other comparable drug treatment program.

The applicant or recipient that is otherwise eligible shall receive benefits for the duration of the drug treatment period, not to exceed six (6) months. Failure to comply with the treatment plan will result in case closure in accordance with TEA policy 3300.

The drug treatment period shall begin with the date of the first treatment session in the drug treatment program or the first date of attendance at a drug recovery support group/resource meeting.

In order to receive program benefits for the duration of the drug treatment program, not to exceed six (6) months, the applicant or recipient that is otherwise eligible must provide the Workforce Specialist with documentation of ongoing compliance with the drug treatment program or recovery support resource that verifies attendance and participation in the program. This documentation shall be provided biweekly.

In the event the drug treatment plan requires more than six (6) months of care, the applicant or recipient that is otherwise eligible may submit to a drug test after six (6) months of treatment to determine the applicant's or recipient's continued eligibility for TEA or Work Pays program benefits.

After the six (6) months of care or disqualification, if the applicant that is otherwise eligible tests positive for drugs in a subsequent drug test, validated by a confirmation test, the applicant shall be ineligible to receive TEA and Work Pays program benefits for one (1) year from the date of the positive confirmation test.

The Workforce Specialist shall determine whether an applicant or recipient that is otherwise eligible has good cause for failure to begin, participate in, and/or complete the drug treatment/recovery support resource program by considering the applicant's or recipients circumstances, whether failure to comply is the result of circumstances beyond the applicant's or recipient's control and the requirements of the applicant's or recipient's drug treatment and/or recovery support program.

If the Workforce Specialist determines that good cause exists, the Workforce Specialist and TEA Supervisor shall work in conjunction with the substance abuse evaluation entity and/or the drug treatment program to amend the applicant's or recipient's drug treatment plan so that the applicant or recipient that is otherwise eligible is able to complete the requirements of the drug treatment plan consistent with his/her abilities.

If an applicant or recipient that is otherwise eligible is found ineligible to receive TEA program benefits as a result of a positive drug test or failure to begin, participate in, and/or complete the drug treatment/recovery support resource program, that applicant or recipient shall not be eligible for benefits and shall be removed from the benefit unit. The dependent child's eligibility for the TEA program shall not be affected.

ADWS or authorized agency shall designate a protective payee, either a caretaker relative or legal guardian of the child, to receive the dependent child's TEA program benefits. No person who is the applicant for TEA benefits and tests positive for the use of drugs shall serve as a protective payee.

An applicant or recipient that is otherwise eligible may appeal any denial of eligibility for TEA and Work Pays benefits as a result of drug screening or drug testing in accordance with appeal procedures.

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