

# MAINE STATE LEGISLATURE

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MINORITY  
HEALTH AND HUMAN SERVICES

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
128TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1111, L.D. 1615, Bill, "An Act To Facilitate Substance Abuse Treatment for Certain Applicants for and Recipients of Temporary Assistance for Needy Families Benefits"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 22 MRSA §3762, sub-§20, as reallocated by RR 2011, c. 1, §33, is repealed.

Sec. 2. 22 MRSA §3762, sub-§§21 and 22 are enacted to read:

21. Denial of assistance to applicants based on positive drug test. An applicant for TANF assistance may be denied TANF assistance as described in this subsection except that eligible children in the applicant's household may not be denied TANF assistance as long as a protective payee, as approved by the commissioner or the commissioner's designee, is named to administer TANF assistance on behalf of the eligible children in the household.

A. The department shall require an applicant for TANF assistance to complete a written screening tool to determine the applicant's likelihood of substance use at the time of the application.

B. If the result of a written screening tool completed by an applicant under paragraph A creates a reasonable suspicion by the department that the applicant is using a drug illegal under state law or abusing a controlled substance, then:

(1) The applicant's TANF assistance application must be denied unless the applicant enrolls in a substance abuse treatment program appropriate to the type of illegal drug being used or the controlled substance being abused by that applicant. The department shall identify and approve an appropriate program and pay for the substance abuse treatment program with available TANF program funds;

COMMITTEE AMENDMENT

11/21/18

1           (2) The applicant is entitled to a fair hearing regarding the denial of TANF  
2           assistance; and

3           (3) If the applicant requests a fair hearing, the applicant shall submit to a drug  
4           test.

5           C. The results of the drug test under paragraph B, subparagraph (3) must be available  
6           prior to the fair hearing, if practicable. The applicant shall cooperate in a timely  
7           manner in submitting to the drug test. If the drug test confirms that the applicant is  
8           using an illegal drug or abusing a controlled substance, the applicant may avoid  
9           denial of TANF assistance by enrolling in a substance abuse treatment program  
10           appropriate to the type of illegal drug being used or the controlled substance being  
11           abused by that applicant, as described in paragraph B, subparagraph (1).

12           D. If the department determines that, for good cause, an applicant is unable to enroll  
13           in a substance abuse program as required by paragraph C, the applicant remains  
14           eligible for TANF assistance until such time that the department determines that the  
15           applicant is able to enroll in a substance abuse treatment program.

16           E. The department shall deny TANF assistance to an applicant who fails to request a  
17           fair hearing and submit to a drug test as described in paragraph B or who fails to  
18           participate in a substance abuse treatment program as required pursuant to paragraph  
19           C or D.

20           The department shall adopt routine technical rules, as defined in Title 5, chapter 375,  
21           subchapter 2-A, to implement the provisions of this subsection, including determining  
22           what constitutes good cause under paragraph D.

23           **22. Denial of assistance to recipients based on conviction or positive drug test.**  
24           A recipient of TANF assistance may have TANF assistance terminated as described in  
25           this subsection except that eligible children in the recipient's household continue to  
26           receive TANF assistance as long as a protective payee, as approved by the commissioner  
27           or the commissioner's designee, is named to administer TANF assistance on behalf of the  
28           eligible children in the household.

29           A. The department shall require a recipient of TANF assistance who has been  
30           convicted of a drug-related felony, as described in Section 115 of PRWORA, within  
31           20 years of the recipient's date of conviction, to complete a written screening tool to  
32           determine the recipient's likelihood of substance use at the time of the screening. A  
33           recipient of TANF assistance convicted under federal or state law on or after October  
34           1, 2017 of any offense that involves as an element of the offense the manufacture,  
35           cultivation, distribution, possession or use of a controlled substance as defined in  
36           Section 102(6) of the federal Controlled Substances Act, 21 United States Code,  
37           Section 802(6) or controlled substance analogue as defined in Section 102(32) of the  
38           federal Controlled Substances Act, 21 United States Code, Section 802(32)(A) is  
39           subject to the requirements of paragraph B, subparagraph (1).

40           B. If the result of a written screening tool completed by a recipient under paragraph  
41           A creates a reasonable suspicion by the department that the recipient is using a drug  
42           illegal under state law or abusing a controlled substance, then:

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1           (1) The recipient's TANF assistance must be terminated unless the recipient  
2           enrolls in a substance abuse treatment program appropriate to the type of illegal  
3           drug being used or the controlled substance being abused by that recipient. The  
4           department shall identify and approve an appropriate program and pay for the  
5           substance abuse treatment program with available TANF program funds;

6           (2) The recipient is entitled to a fair hearing regarding the denial of TANF  
7           assistance; and

8           (3) If the recipient requests a fair hearing, the recipient shall submit to a drug  
9           test.

10           C. The results of the drug test under paragraph B, subparagraph (3) must be available  
11           prior to the fair hearing, if practicable. The recipient shall cooperate in a timely  
12           manner in submitting to the drug test. If the drug test confirms that the recipient is  
13           using an illegal drug or abusing a controlled substance, the recipient may avoid  
14           termination of TANF assistance by enrolling in a substance abuse treatment program  
15           appropriate to the type of illegal drug being used or the controlled substance being  
16           abused by that recipient, as described in paragraph B, subparagraph (1).

17           D. If the department determines that, for good cause, a recipient is unable to enroll in  
18           a substance abuse program as required by paragraph C, the recipient remains eligible  
19           for TANF assistance until such time that the department determines that the recipient  
20           is able to enroll in a substance abuse treatment program.

21           E. The department shall terminate TANF assistance to a recipient who fails to  
22           request a fair hearing and submit to a drug test as described in paragraph B or who  
23           fails to participate in a substance abuse treatment program as required pursuant to  
24           paragraph C or D.

25           The department shall adopt routine technical rules, as defined in Title 5, chapter 375,  
26           subchapter 2-A, to implement the provisions of this subsection, including determining  
27           what constitutes good cause under paragraph D.

28           **Appropriations and allocations.** The following appropriations and allocations  
29           are made.

30           **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

31           **Temporary Assistance for Needy Families 0138**

32           Initiative: Provides allocations for the written screening tool utilized for the  
33           comprehensive substance abuse screening.

34	<b>FEDERAL BLOCK GRANT FUND</b>	<b>2017-18</b>	<b>2018-19</b>
35	All Other	\$17,794	\$17,794
36			
37	FEDERAL BLOCK GRANT FUND TOTAL	<u>\$17,794</u>	<u>\$17,794</u>

38           **Temporary Assistance for Needy Families 0138**

H. of S.

1 Initiative: Provides allocations for 3 Senior Planner positions to conduct and score the  
 2 comprehensive substance abuse screening, schedule drug tests and make referrals to  
 3 treatment programs.

4	<b>FEDERAL BLOCK GRANT FUND</b>	<b>2017-18</b>	<b>2018-19</b>
5	POSITIONS - LEGISLATIVE COUNT	3.000	3.000
6	Personal Services	\$242,363	\$250,599
7	All Other	\$28,172	\$28,446
8			
9	<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<u>\$270,535</u>	<u>\$279,045</u>

10	<b>HEALTH AND HUMAN SERVICES,</b>		
11	<b>DEPARTMENT OF (FORMERLY DHS)</b>		
12	<b>DEPARTMENT TOTALS</b>	<b>2017-18</b>	<b>2018-19</b>
13			
14	<b>FEDERAL BLOCK GRANT FUND</b>	<b>\$288,329</b>	<b>\$296,839</b>
15			
16	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$288,329</b></u>	<u><b>\$296,839</b></u>
17			

18 **SUMMARY**

19 This amendment, which is the minority report of the committee, replaces the bill. It  
 20 repeals the provision of law allowing the Department of Health and Human Services to  
 21 determine reasonable suspicion of illegal drug use or controlled substance abuse by  
 22 recipients of Temporary Assistance for Needy Families, or TANF, assistance by means  
 23 other than through the use of a written screening tool. It applies the procedures for  
 24 applicants contained in the bill to current recipients of TANF assistance with felony drug  
 25 convictions in the last 20 years. It requires a recipient of TANF assistance who is  
 26 convicted of a drug conviction of any kind after October 1, 2017 to be enrolled in a  
 27 substance abuse treatment program in order to retain TANF assistance. The amendment  
 28 also clarifies that denial of assistance applies only to an adult and not to the eligible  
 29 children in the adult's household. This amendment adds an appropriations and allocations  
 30 section.

31 **FISCAL NOTE REQUIRED**

32 (See attached)



# 128th MAINE LEGISLATURE

LD 1615

LR 2326(02)

## An Act To Facilitate Substance Abuse Treatment for Certain Applicants for and Recipients of Temporary Assistance for Needy Families Benefits

Fiscal Note for Bill as Amended by Committee Amendment *ACH-4767*

Committee: Health and Human Services

Fiscal Note Required: Yes

### Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
<b>Appropriations/Allocations</b>				
Federal Block Grant Fund	\$288,329	\$296,839	\$305,959	\$315,860
<b>Revenue</b>				
Federal Block Grant Fund	\$288,328	\$296,839	\$305,959	\$315,860

#### Fiscal Detail and Notes

The bill includes Federal Block Grant allocations to the Department of Health and Human Services (DHHS) of \$288,329 in fiscal year 2017-18 and \$296,839 in fiscal year 2018-19 for the written screening tool utilized for the comprehensive substance abuse screening and for 3 Senior Planner positions to conduct and score the comprehensive substance abuse screening, schedule drug tests and make referrals to treatment programs.

There could be potential increases in MaineCare costs or DHHS Substance Abuse treatment contracts due to increased enrollment in treatment programs if more individuals enter the program due to this policy change. There is not enough information currently known about this impact and this fiscal note does not include an estimate of any of these potential costs.