**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4458**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Viers, Murphy, Atwater, McCoy and V.S. Moss

Document Path: l:\council\bills\nbd\11963ac12.docx

Introduced in the House on January 10, 2012

Currently residing in the House Committee on **Ways and Means**

Summary: Medicaid applicants to undergo a drug test

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/29/2011 House Prefiled

11/29/2011 House Referred to Committee on **Ways and Means**

1/10/2012 House Introduced and read first time ([House Journal‑page 48](file:///h:\hj%20archive\2012\01-10-12.docx))

1/10/2012 House Referred to Committee on **Ways and Means** ([House Journal‑page 48](file:///h:\hj%20archive\2012\01-10-12.docx))

1/12/2012 House Member(s) request name added as sponsor: McCoy

1/26/2012 House Member(s) request name added as sponsor: V.S.Moss

**VERSIONS OF THIS BILL**

[11/29/2011](file:///p:\pprever\2011-12\4458_20111129.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 43‑5‑480 SO AS TO REQUIRE APPLICANTS FOR MEDICAID, TEMPORARY ASSISTANCE FOR NEEDY FAMILIES, AND FOOD STAMPS BENEFITS TO UNDERGO A DRUG TEST AS A CONDITION OF ELIGIBILITY TO RECEIVE THESE BENEFITS; TO PROVIDE THAT AN INDIVIDUAL WHO TESTS POSITIVE FOR DRUGS IS INELIGIBLE TO RECEIVE THESE BENEFITS FOR ONE YEAR UNLESS THE PERSON SUCCESSFULLY COMPLETES A SUBSTANCE ABUSE TREATMENT PROGRAM; TO PROVIDE CERTAIN LIMITED EXCEPTIONS, AND TO FURTHER SPECIFY THE PROCEDURES FOR CONDUCTING THESE TESTS AND PROVIDING THESE BENEFITS PURSUANT TO THIS ACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 5, Title 43 of the 1976 Code is amended by adding:

“Section 43‑5‑480. (A)(1) As used in this section, ‘benefits’ means benefits provided under the Medicaid, Temporary Assistance for Needy Families, and Food Stamps programs or any combination of these.

(2) The department shall require a drug test to screen each applicant for benefits. However, if an applicant has undergone drug testing and obtained negative results within the past year when applying for or receiving benefits under one program, the applicant is not required to undergo drug testing to receive benefits under another program. An applicant for benefits under the TANF program includes a parent or caretaker relative who is included in the cash assistance group and an individual who may be exempt from work activity requirements due to the age of the youngest child pursuant to Section 43‑5‑1180.

(3) As a condition of eligibility to receive benefits, the applicant must obtain negative test results from the testing required pursuant to (2). An individual who tests positive for a controlled substance as a result of the drug test required pursuant to (2) is ineligible to receive benefits for one year after the date of the positive drug test unless the individual satisfies the requirements of subsection (B)(10).

(B) The department shall:

(1) provide notice of drug testing to each individual at the time of applying for benefits and shall inform the individual that undergoing drug testing and obtaining negative test results is a condition for receiving benefits and that the individual must bear the cost of the drug testing. However, if the individual tests negative for controlled substances, the department, in the case of a TANF applicant, shall increase the amount of the initial TANF benefit payment by the amount paid by the individual for the drug testing, and the department, in the case of individuals applying for Medicaid or food stamps, shall reimburse the individual in an amount equal to that which the individual paid for the drug testing. The individual must be informed that no drug testing will be conducted if the individual does not apply for benefits. Dependent children under the age of eighteen are exempt from the drug‑testing requirement;

(2) require that for two‑parent families applying for TANF benefits, both parents must undergo the drug testing required pursuant to subsection (A)(2);

(3) require that any teen parent applying for TANF who is not required to live with a parent, legal guardian, or other adult caretaker relative pursuant to Section 43‑5‑1220 must undergo the drug testing required pursuant to subsection (A)(2);

(4) inform each individual, before the drug test is conducted, that the individual may, but is not required to, notify the agent administering the test of any prescription or over‑the‑counter medication the individual has taken;

(5) require each individual to sign a written acknowledgment that he or she has received and understood the notice and information provided in items (1) and (4);

(6) provide each individual a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state’s need to ensure the reliability of the sample;

(7) specify circumstances under which an individual who obtains a positive test result has the right to take one or more additional tests;

(8) inform an individual who obtains a positive test result for a controlled substance and is deemed ineligible for benefits that the individual may reapply for those benefits one year after the date of the positive drug test unless the individual satisfies the requirements of item (10). If the individual tests positive a second time, the individual is ineligible to receive benefits for three years after the date of the second positive drug test unless the individual satisfies the requirements of item (10);

(9) provide an individual who obtains a positive test result with a list of department‑approved substance abuse treatment providers available in the area in which the individual resides. Neither the department nor the State is responsible for providing or paying for substance abuse treatment an individual may undergo pursuant to this section;

(10) an individual who obtains a positive test result from the testing required pursuant to section (A)(2) and is denied benefits as a result may reapply for those benefits after six months if:

(a) the individual can document:

(i) the successful completion of a substance abuse treatment program offered by a department‑approved provider;

(ii) all drug tests conducted while the individual was undergoing substance abuse treatment resulted in negative test results; and

(b) upon reapplying for benefits the individual obtains a negative test result from the testing required pursuant to subsection (A)(2).

The cost of drug testing conducted pursuant to this item and the substance abuse treatment which an individual received pursuant to this item are the responsibility of the individual who is tested and who received treatment. An individual who fails the drug test required pursuant to subsection (A)(2) may reapply for benefits under this item only once.

(C) If a parent is deemed ineligible for TANF benefits as a result of failing a drug test conducted pursuant to this section:

(1) the dependent child’s eligibility for TANF benefits is not affected;

(2) an appropriate protective payee must be designated to receive benefits on behalf of the dependent child;

(3) the parent may designate an immediate family member as the protective payee for the dependent child or, if an immediate family member is not available or the family member declines to be protective payee, another individual, approved by the department, may be designated. The designated family member or individual also must undergo drug testing before being approved to receive benefits on behalf of the dependent child. If the designated individual tests positive for controlled substances, the individual is ineligible to serve as the protective payee on behalf of the dependent child.

(D) The department shall promulgate regulations to carry out the provisions of this section.”

SECTION 2. This act takes effect July 1, 2012.

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