

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 660 Department or Agency Human Resources

Rule No. 660-2-2-.42

Rule Title: Drug Screening Requirements

X New Amend  Repeal  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety: yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? yes

Is there another, less restrictive method of regulation available that could adequately protect the public? no

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? no

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? no

Are all facets of the rule making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? yes

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Does the proposed rule have an economic impact? yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of § 41-22-23, ALA.CODE 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, ALA.CODE 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service:

Signature of certifying officer: *Amy J. Buchner*

Date: 6-11-15

DATE FILED  
(STAMP)

Department of Human Resources  
Family Assistance Division

**NOTICE OF INTENDED ACTION**

RULE NO. & TITLE: 660-2-2-.42 Drug Screening Requirements

INTENDED ACTION: Proposed permanent rule

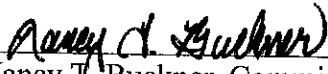
SUBSTANCE OF PROPOSED ACTION: Permanent rule to impose drug screening requirements as required by State Law.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, views, or arguments respecting the proposed rule by mail, by telephone or in person through the close of business on August 4, 2015. Persons wishing to submit data, views, or arguments orally should contact the Department's Administrative Procedure Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at (334) 242-9330, or set up an appointment for such oral/in person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: August 4, 2015.

CONTACT PERSON AT AGENCY:

Ms. Gail Grobe, AP Secretary  
State Department of Human Resources  
Gordon Persons Building  
50 Ripley Street, Room 2122  
Montgomery, Alabama 36130-4000

  
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Nancy T. Buckner, Commissioner  
Department of Human Resources

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. 660 Department or Agency Human Resources

Rule No: 660-2-2-.42

Rule Title: Drug Screening Requirements

New  Amend  Repeal  Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

**Compliance with State Law, specifically Act # 2014-438. Additionally, potential inappropriate client use of benefits may be minimized.**

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

**For those clients in violation of the rule, warnings will first be issued and later penalties for violations result in loss of benefits from one year to permanently as well as loss of direct access to the assistance in certain instances. The use of financial penalties as enforcement of a rule provides greater assurance of the likelihood of client compliance.**

3. EFFECT OF THIS RULE ON COMPETITION:

None

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

None

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

**None**

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

**Temporary Assistance for Needy Families Block Grant**

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

**The short term impact on clients could be a loss of benefits for violations of the rule. The long term benefit is that clients will adhere to the rule rather than risk loss or continued loss of benefits.**

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

**None**

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

**None.**

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

**None.**

RULES  
of the  
DEPARTMENT OF HUMAN RESOURCES  
FAMILY ASSISTANCE DIVISION  
Chapter 660-2-2  
FAMILY ASSISTANCE PROGRAM

**660-2-2-.42 Drug Screening Requirements**

- (1) Adult applicants/recipients who are otherwise eligible for assistance must cooperate with the Department in activities needed to determine if reasonable suspicion exists that the adult uses or is under the influence of a drug and if reasonable suspicion exists by completing a drug screening.
- (2) Failure/refusal of the adult applicant to cooperate results in denial of the application for the entire assistance unit and loss of benefits for that application period, i.e., month of application through the month of disposition of the application. Failure/refusal of the adult applicant being added back to an existing assistance unit to cooperate results in denial of the application for that individual for that application period and case closure. Failure/refusal of the adult recipient to cooperate results in case closure.
- (3) Cooperation includes: attesting to the existence or not of any criminal convictions related to the use or distribution of a drug within five years prior to the date of application for assistance; providing information about recent use of a drug; and taking the initial or subsequent drug screenings within the timeframes established by the Department.
- (4) A positive drug screening without a valid prescription for the identified drug results in the following penalties:
  - (a) For the first positive drug screening, the grantee relative (adult) will be issued a warning that subsequent positive tests will result in loss of benefits and that other random drug screenings will be required.
  - (b) For the second positive drug screening, the grantee relative (adult) will be ineligible for benefits for one year. The ineligible grantee relative may continue to receive benefits on behalf of the assistance unit.
  - (c) For the third positive drug screening, the grantee relative (adult) will be permanently ineligible to receive assistance either as a grantee relative or as a member of the (an) assistance unit. Payment to the assistance unit will be made to another relative living in the home or other protective payee pursuant to Department operating guidelines. The ineligible grantee relative may continue to

receive benefits for other eligible assistance unit members for a temporary period while appointment of another grantee relative/ protective payee is being processed.

(5) Responsibility for Costs of Drug Screening:

- (a) The cost of the initial drug screening is the responsibility of the Department.
- (b) The cost of any subsequent drug screening required by the Department is the responsibility of the person screened. The Department will reimburse the person for the cost of a required drug screening if the person tests negative.
- (c) The cost of a drug screening to contest the results of a positive drug screening is the responsibility of the person screened.

(6) Definitions:

(a) Drug: Includes all of the following:

(1) A controlled substance for which a medical prescription or other legal authority is required for purchase or possession, including, but not limited to: An amphetamine, a tetrahydrocannabinol, oxycodone, cocaine, phencyclidine (PCP), an opiate, a barbiturate, a benzodiazepine, a methamphetamine, a propoxyphene, a tricyclic antidepressant, or a metabolite of any of these substances.

(2) A drug whose manufacture, sale, use, or possession is forbidden by law.

(b) Drug Screening: Any chemical, biological, or physical instrumental analysis conducted for the purpose of determining the presence or absence of a drug or its metabolites. Department operating guidelines specify the entity to be used for all drug screenings as well as the type drug screening to be conducted.

(c) Adult: An individual age 18 or older.

(d) Reasonable Suspicion: The existence of any criminal conviction for the use or distribution of a drug within five years prior to the date of application for assistance and recent drug use as defined in (e) below or a positive drug screening pursuant to this rule without a valid prescription.

(e) Recent Drug Use: Use of an illegal drug (meaning a drug whose manufacture, sale, use or possession is forbidden by law) or use of a prescription medication for a non- medical reason (meaning just because of the feeling or experience it provides) within one year prior to the date of application.

(f) Valid Prescription: A current written instruction by a medical practitioner that authorizes a patient be provided a medicine or treatment and which is provided to the patient by an entity licensed/certified to dispense medication, i.e. a drug store, hospital pharmacy, medical insurance program, etc.

(7) Implementation of Rule: The provisions of this rule begin on October 1, 2015.

(8)Termination of Rule: The provisions of this rule terminate on September 30, 2017.

**Author:** Melody Armstrong

**Statutory Authority:** Social Security Act, Title IV-A; 45 C.F. R.; State Plan for Title IV-A; Code of Ala 1975, Title 38.

**History: New Rule:** Filed June 22, 2015; effective September 9, 2015.