

Date: (Filing No. H-)

HEALTH AND HUMAN SERVICES

Reproduced and distributed under the direction of the Clerk of the House.

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

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Sec. 1. 22 MRSA §3762, sub-§20, as reallocated by RR 2011, c. 1, §33, is repealed.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

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:

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	FEDERAL BLOCK GRANT FUND	2017-18	2018-19
35	All Other	\$17,794	\$17,794
36			
37	FEDERAL BLOCK GRANT FUND TOTAL	\$17,794	\$17,794

38 **Temporary Assistance for Needy Families 0138**

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

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