

FISCAL NOTE
Requested by Legislative Council
02/07/2017

Amendment to: HB 1308

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1308 requires individuals, in the Temporary Assistance for Needy Families program, participating in an employment plan to undergo mandatory addiction screening with an effective date of April 1, 2018.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If the contractor identifies an individual employment plan participant at risk of addiction, the individual will be referred to appropriate treatment. The cost of the treatment would be at the expense of the applicant, through their third-party coverage including Medicaid. The additional Medicaid costs or Human Service Center costs related to treatment are undeterminable.

The Department may see a change in TANF benefits, however the number of applicants who fail or who do not comply with a treatment plan, and the timeframe for which they may be denied benefits, is undeterminable and the spouse or the dependents may still qualify for TANF benefits.

The fiscal impact on the counties for performing Child Protection Services assessments is undeterminable. The effects on the Department's Foster Care grant costs are also undeterminable.

Any responsibilities added to the county social services due to the implementation of this bill are not included in the County Social Service Financing formula methodology included in 2017 SB2206.

The additional administrative duties related to implementation of this bill will be absorbed by Department staff and their employment vendor.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

If the contractor identifies an individual employment plan participant at risk of addiction, the individual will be referred to appropriate treatment. The cost of the treatment would be at the expense of the applicant, through their third-party coverage including Medicaid. The additional Medicaid costs or Human Service Center costs related to treatment are undeterminable.

The Department may see a change in TANF benefits, however the number of applicants who fail or who do not comply with a treatment plan, and the timeframe for which they may be denied benefits, is undeterminable and the spouse or the dependents may still qualify for TANF benefits.

The fiscal impact on the counties for performing Child Protection Services assessments is undeterminable. The effects on the Department's Foster Care grant costs are also undeterminable.

Any responsibilities added to the county social services due to the implementation of this bill are not included in the County Social Service Financing formula methodology included in 2017 SB2206.

The additional administrative duties related to implementation of this bill will be absorbed by Department staff and their employment vendor.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Jennifer Scheet

Agency: Human Services

Telephone: 328-4608

Date Prepared: 02/08/2017

FISCAL NOTE
Requested by Legislative Council
01/16/2017

Revised
 Bill/Resolution No.: HB 1308

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$158,890		\$6,720	
Appropriations			\$158,890		\$6,720	

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1308 requires a five panel drug test to be performed for applicants applying for assistance through the Temporary Assistance for Needy Families (TANF) program if an applicant is suspected of drug use.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The estimated fiscal impact for HB 1308 is \$158,890, of which all is general fund, due to the Department of Human Services (Department) incurring costs relating to; drug testing, \$2,880, the creation of new administrative rules, \$2,500, and programming costs for necessary changes to the Department's eligibility determination systems, \$153,510.

The cost of the initial drug test is estimated at \$40 per test, including the cost of a second "confirmation test", as required in the bill for all failed tests. If any of the individuals selected for a urine-based drug test fail they must be referred by the county to an appropriate treatment resource. The cost of the treatment would be at the expense of the applicant, through their third-party coverage including Medicaid. Upon completion of the treatment plan they must be re-tested before eligibility for TANF benefits can be determined. In this analysis it is assumed applicants selected for testing will need to be re-tested as least once.

The Department may see a change in TANF benefits, however the number of applicants who fail or who do not comply with a treatment plan, and the timeframe for which they may be denied benefits, is undeterminable and the spouse or the dependents may still qualify for TANF benefits.

The fiscal impact on the counties for performing Child Protection Services assessments is undeterminable. The effects on the Department's Foster Care grant costs and Human Service Center costs related to additional treatment services are also undeterminable.

Any responsibilities added to the county social services due to the implementation of this bill are not included in the County Social Service Financing formula methodology included in 2017 SB2206.

System costs do not include extra costs to secure computer systems to ensure confidential treatment information is not disclosed. The VISION system changes of \$80,410 wouldn't need to be made if bill wasn't implemented until 1/1/2018.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

In the 17-19 biennium the Department of Human Services would incur additional operating expenditures of \$158,890, of which, all would be general fund, to perform drug tests on TANF applicants who are suspected of potential drug use.

The cost of the initial drug test is estimated at \$40 per test, including the cost of a second "confirmation test". The costs related to the 17-19 biennium include; \$2,880 for drug testing, \$2,500 for the creation of administrative rules, and \$153,510 in programming costs, for necessary changes to the Department's eligibility determination systems.

The fiscal impact on the counties for performing Child Protection Services assessments is undeterminable. The effects on the Department's Foster Care grant costs and Human Service Center costs related to additional treatment services are also undeterminable.

Any responsibilities added to the county social services due to the implementation of this bill are not included in the County Social Service Financing formula methodology included in 2017 SB2206.

System costs do not include extra costs to secure computer systems to ensure confidential treatment information is not disclosed. The VISION system changes of \$80,410 wouldn't need to be made if bill wasn't implemented until 1/1/2018.

For the 19-21 biennium, an increase of \$6,720 in operating expenditures to perform drug testing, of which all would be general fund, is anticipated.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The Department of Human Services would need an appropriation increase of \$158,890, of which, all would be general fund, to the base level budget HB1012 and an increase of \$158,890, of which all is general fund, to the Executive Budget Recommendation HB1072 for the 17-19 biennium. For the 19-21 biennium an appropriation increase of \$6,720, of which all is general fund would be needed for drug testing.

Name: Debra A McDermott

Agency: Human Services

Telephone: 328-3695

Date Prepared: 01/23/2017

FISCAL NOTE
Requested by Legislative Council
01/16/2017

Bill/Resolution No.: HB 1308

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$158,890		\$6,720	
Appropriations			\$158,890		\$6,720	

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1308 requires a five panel drug test to be performed for applicants applying for assistance through the Temporary Assistance for Needy Families (TANF) program if an applicant is suspected of drug use.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The estimated fiscal impact for SB 2279 is \$158,890, of which all is general fund, due to the Department of Human Services (Department) incurring costs relating to; drug testing, \$2,880, the creation of new administrative rules, \$2,500, and programming costs for necessary changes to the Department's eligibility determination systems, \$153,510.

The cost of the initial drug test is estimated at \$40 per test, including the cost of a second "confirmation test", as required in the bill for all failed tests. If any of the individuals selected for a urine-based drug test fail they must be referred by the county to an appropriate treatment resource. The cost of the treatment would be at the expense of the applicant, through their third-party coverage including Medicaid. Upon completion of the treatment plan they must be re-tested before eligibility for TANF benefits can be determined. In this analysis it is assumed applicants selected for testing will need to be re-tested as least once.

The Department may see a change in TANF benefits, however the number of applicants who fail or who do not comply with a treatment plan, and the timeframe for which they may be denied benefits, is undeterminable and the spouse or the dependents may still qualify for TANF benefits.

The fiscal impact on the counties for performing Child Protection Services assessments is undeterminable. The effects on the Department's Foster Care grant costs and Human Service Center costs related to additional treatment services are also undeterminable.

Any responsibilities added to the county social services due to the implementation of this bill are not included in the County Social Service Financing formula methodology included in 2017 SB2206.

System costs do not include extra costs to secure computer systems to ensure confidential treatment information is not disclosed. The VISION system changes of \$80,410 wouldn't need to be made if bill wasn't implemented until 1/1/2018.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

In the 17-19 biennium the Department of Human Services would incur additional operating expenditures of \$158,890, of which, all would be general fund, to perform drug tests on TANF applicants who are suspected of potential drug use.

The cost of the initial drug test is estimated at \$40 per test, including the cost of a second "confirmation test". The costs related to the 17-19 biennium include; \$2,880 for drug testing, \$2,500 for the creation of administrative rules, and \$153,510 in programming costs, for necessary changes to the Department's eligibility determination systems.

The fiscal impact on the counties for performing Child Protection Services assessments is undeterminable. The effects on the Department's Foster Care grant costs and Human Service Center costs related to additional treatment services are also undeterminable.

Any responsibilities added to the county social services due to the implementation of this bill are not included in the County Social Service Financing formula methodology included in 2017 SB2206.

System costs do not include extra costs to secure computer systems to ensure confidential treatment information is not disclosed. The VISION system changes of \$80,410 wouldn't need to be made if bill wasn't implemented until 1/1/2018.

For the 19-21 biennium, an increase of \$6,720 in operating expenditures to perform drug testing, of which all would be general fund, is anticipated.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The Department of Human Services would need an appropriation increase of \$158,890, of which, all would be general fund, to the base level budget HB1012 and an increase of \$158,890, of which all is general fund, to the Executive Budget Recommendation HB1072 for the 17-19 biennium. For the 19-21 biennium an appropriation increase of \$6,720, of which all is general fund would be needed for drug testing.

Name: Debra A McDermott

Agency: Human Services

Telephone: 328-3695

Date Prepared: 01/23/2017

2017 HOUSE HUMAN SERVICES

HB 1308

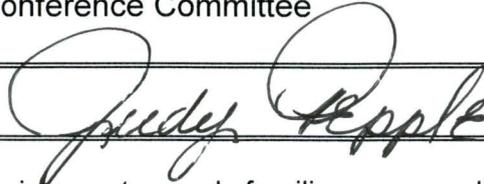
2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1308
1/23/2017
27255

- Subcommittee
 Conference Committee

Committee Clerk Signature



Relating to drug testing for temporary assistance to needy families program benefits.

Minutes:

1, 2, 3, 4, 5, 6, 7

Chairman Weisz: called the committee to order.

Chairman Weisz: Opened hearing on HB 1308

Before we begin I want to tell you that the prime sponsor of the bill is not able to be here today. We will take testimony in support of and in opposition of HB 1308, but we will leave the hearing open so that he will have an opportunity to testify at a later time. If someone else would wish to testify at that time they can.

Representative McWilliams: Introduced HB 1308

I am going to do my best to walk through this bill and give a little personal testimony to let you know why I think it is a good idea. What this bill does is require drug testing to receive benefits. The test would consist of a 5 panel test. A urine test. Right now Tennessee has a similar bill and to be able to administer the drug test I believe that cost is less than \$4000 annually. It may cost some.

(At this point he went through the bill.)

6:45

Chairman Weisz: Questions from the committee.

Further testimony in support of HB 1308?

Senator Tom Campbell

(Attachment 1)

I am just going to touch base on a few bullet points.

1. Most people believe we should start drug testing for those who receive benefits. We do not drug test for food stamps because it is federal. It is time we send a message that we will no longer put up with drug users who receive TANF benefits. ND work force have to get drug tested in their jobs and surely we should bring drug testing to those who receive TANF benefits, especially where there are children involved.
2. 14 states have this law and 19 more are considering it.
3. We can very easily set this up. I am passing around a picture of the cup that all county offices are using. It is approximately \$8. They stock them. It is a simple urine test that takes about 8 minutes. (Attachment 1) It has a temperature on it so people can't bring in a sample. If they test positive, it costs about \$55 to verify it at a clinic.

4. This is suspicion testing. It is not mandatory. (Mandatory has been challenged in other states, so to get it through we took that out.) The suspicion testing puts a lot of burden on those testing.
 5. There might be a huge liability issue, but if children are involved I think it is worth it.
 6. Not a "gotcha" mentality, but a tough love philosophy.
 7. This is set up so that if the parents test positive the children can still get those benefits.
- 11:57

Chairman Weisz: What is the Senate bill number?

Senator Campbell: Senate bill 2279

Chairman Weisz: The fiscal note says SB 2279.

Senator Campbell: What does it say?

Chairman Weisz: \$158,890

Senator Campbell: Don't be misled by those numbers. I think it could be done and the fiscal note would be less than \$1000. To keep children off of drugs it is a no brainer. Everyone in the workforce has to drug test, so why shouldn't the ones receiving benefits? No one wants to ask someone to give them a urine sample in a cup, but tough love is compassion. This is a start.

Representative Porter: Is there verbiage that you have considered inside this bill that makes sure it gets down to the \$8 test? Because we are still looking at the \$40 test and then it talks about testing a lot more than what you are saying. It talks more about like an initial base line of everybody and then we can move on to suspicion type testing. Is there as you are looking at this bill and the senate bill is there verbiage inside of the definitions. How do we make sure this is where we are going? That it is the way you describe it and not the way the fiscal note talks about it. one they are talking about in this bill.

Senator Campbell: That is a great question. On my bill it is page 3 line 4. There is no guarantee that they would go that route. It would have to be amended to make sure that that is the route they take. There is going to be the liability issue with the county workers. It is going to be challenged by the local county workers about not wanting to do this. Some people in the county are going to be against this, because they have to be trained, but that is not a big thing. Human Services developed the program so we would have to have them get involved. At this time there is not a plan for that.

Representative Skroch: I am just wondering if one of the triggers could be if there be previous criminal records of someone that is in financial trouble and having to fill out the application for TANF. Is there any communication that could go on between law enforcement for example and the social services.

Senator Campbell: I think it would be irrelevant to either of the bills. I think if you are a felon there are some benefits you can't receive, but I don't think it has to do with TANF.

Representative Skroch: Could criminal records be shared with those that are doing the testing so that a red flag could come up and say this is one we want to test because they have a history of abusing illegal substance. If they have a criminal record already if that information can be shared to them so that trigger would appear.

Senator Campbell: I think right now they don't want that to happen. I would probably be against that, because there is a lot that prevents that right now.

Representative D. Anderson: Maybe I will wait to see if my question will be answered.

Representative Schneider: I have a lot of problems with this and I think we are seriously underestimating both the impact of it to our families and the cost of it. I am sure you know we have a behavioral health crisis. Has anyone taken a look at what additional services would be needed? We have people that go into the parking lot of human services already and take out a gun and try to kill themselves in Fargo because they can't get any services. They are turned away from services and perhaps we should be looking at the behavioral issues first so that these people might be able to get help. I don't think the help is out there for them right now and the cost of doing the behavioral health system in a way that would provide access to these folks is probably huge. I think we should do it so they can voluntarily get help and see if that might not be part of answer to that. Have you envisioned where the services are going to come from for these people?

Senator Campbell: That is a challenge. There needs to be more addiction counseling, but to back up to your experience. I have been doing prison ministry for several years and I know that drugs is one of the biggest problems for people in prison. If there are drugs in the family, we are starting a second generation of drug users and dealers. This needs to be tough love instead of doing nothing. To do nothing sends a terrible message not just to the parent, but to the child as well that says they can do drugs as much as they want and still be given money to feed their kid. I would rather have a child deprived of his basic needs than to have food in their belly and drugs in the home. To answer your question, I think the counseling is going to come, but there is a lot of other bills used to increase our addiction counselors and stuff. They are falling behind, but to do nothing is not the answer. The other states that have adopted this have the same problem and I would hope that we don't do nothing because of the reasons you said. This should be put in place with the food stamp program, but the federal law says we can't. We can use the TANF funds to pay for the drug testing, but that is up to the Human Services Department. We have to do something, because it is getting worse. The people on the services are getting it no matter what they do and they know we are not going to do anything about it. We have to start somewhere. We are losing the battle. Drug usage is going up and I am just frustrated. We are all on the same page, but it is just 2 different ways of getting there. I have a little story. There is a Hutterite colony in my district. I asked him how many people are in his community and he said about 142. It has been here about 80 some years. How many people in your community

Hutterite colony. I asked how many people in their community he told me 82. How many are on drugs? He said none. I said how many are unemployed.? He said none. He said if you don't work, you don't eat in our community. No one is on any kind of assistance. There was a mentally handicapped young man come by and he said Mike collects our garbage because he needs a purpose in life. I know this is an extreme case, but 0 drugs, 0

unemployment, and 0 assistance needed. During the Obama administration we saw 28 million additional people on welfare. It just keeps getting worse and worse. I can guarantee you that we will be back here again in 2 years and it will be worse. We need to send them a message. Everyone I have talked to except a few county workers have said yes it is time to do this.

Representative Schneider: I know you are a nice person and I know that you have done good things, but we have a committee that says we can only afford to help 9% of the people that need behavioral health treatment. You are basically going to remove a parent, usually a single parent, of young children from a grant that is already adding subsistence to those below subsistence level. Then you are going to pay someone to be a payee or watch the kids or to be in the home to find out that Mom doesn't eat because she is not on the grant or whatever. This will create another huge program and it will come out of the food for the children. I would hope that in a step toward this we would work on the behavioral health funding.

29:00

Chairman Weisz: Further questions from the committee? Seeing none, thank you.
Further testimony in support of HB 1308?

Rep. Brandenburg

(Attachment 2) This is an amendment that helps the questions

I will just echo the thoughts of those ahead of me. What is has already been said. I would say from my personal experience. I spent 22 years in the National Guard. At least a dozen times in my career in the National Guard I was randomly drug tested and I have no problem with it. I was in service to my country and it didn't bother me a bit. As this amendment talks about this one talks to people that are receiving assistant energy program. They get assistance to get their house energy efficient. Also section 3 deals with the federal government which has put out rules that we can't do drug testing on anyone that is on SNAP. With the new administration coming in I am requesting that in this amendment that the health department pursue a federal Medicaid waiver to allow the department to implement this suspicious drug testing program. I think that we can stick our heads in the sand and say that this isn't happening, but it is. We have people that we know in our small communities it's happening. When you deal with drugs we are helping those people. There are a lot of people out there that say they have no problem helping someone that needs some assistance in life, but when it is a program and there are drugs involved, the child or children in that home are not in the best hands. They usually end up with the same problems. A lot of these people have nowhere to turn. They don't have God in their life. I did some work at a prison in Louisiana and in the 70s they changed the program to include God or a higher power. That is what we don't have today and that is why we have the drug problem. We need to deal with behavior health, but we need to find out where the problem is. It starts in the home and we need to figure it out. This bill will open it us to pursue a Medicaid waiver. We will see what this new administration does. I would say that there may be some changes. I agree with behavioral health, but you have to find out what the problem is before you can pursue it. Where are you going to put that money? I agree that we want to help people whether it is dealing with drugs, behavioral health, but it still starts back home.

33:31

Chairman Weisz: You are talking about the heat assistance program.

Rep. Brandenburg: Yes, it is being subsidized and paid for. I don't want to just go after the TANF people. I would just like to see them all tested. That's why I am talking about Section 3 and pursuing a federal Medicaid waiver.

Chairman Weisz: Further questions?

Representative Skroch: There are elderly people that apply for heat assistance and I can't imagine having my Grandma pee in a cup.

Rep. Brandenburg: Yes, I know, but some of them need to be tested. Some of them won't be bothered at all and some of them it will bug the daylights out of them. Like I said, I was in the National Guard for 22 years and it never bothered me a bit. If this helps in other situations I am glad to do it.

Representative P. Anderson: Going back a little bit to the elderly. So if they do pee in a cup and they find out that Grandpa is over the legal limit for alcohol. Are we going to cut their energies off?

Rep. Brandenburg: We are dealing with the drug testing and the rules are for everybody.

Representative McWilliams: This does not include alcohol.

Chairman Weisz: Further testimony in support of HB 1308. None
Any testimony in opposition of HB 1308?

36:45

Kim Jacobson, County Social Services Director
(Attachment 3)

Chairman Weisz: Questions

Representative Skroch: Do you have information as to the cost.

K. Jacobson: yes, I can get that.

Representative D. Anderson: who is the protected payee.

K, Jacobson: Someone that would take care

Representative McWilliams: We only have 4 people in our area that receive

K. Jacobson: Yes.

Representative McWilliams: have you ever had anyone come in that was high or under the influence.

K. Jacobson: I can't say that. It would be speculation on my part.

Representative McWilliams:

K. Jacobson: If they come and request help, we

Representative Damschen: Purpose of this if we are giving them money and they are using it on drugs.

Chairman Weisz: how would you determine suspicion

K. Jacobson: I really don't know. It would be up to the department.

Representative Skroch: I think that if we just tested everyone, wouldn't that take the burden off of you?

K. Jacobson: That would add significantly to the cost. Where would they go and who would do it.

Representative Skroch: It says that there is a very small number. I am a school bus driver and I am tested for the good of the kids.

Representative Schneider: I think it is illegal to test everyone without suspicion

Representative McWilliams: What is the process for the training?

K. Jacobson: For drug testing to be held up. It requires recertification periodically. You have to observe the urine collection. I would be concerned that county workers would have to do that.

Chairman Weisz: Further testimony in opposition to HB 1308?

Pam Sagness
(Attachment 4)

Without profiling how do you identify suspicion.

Chairman Weisz: Questions

Representative Porter: We have had numerous discussions to figure out how better to spend our money? Do you have amendments to do what you are thinking?

Pam: No not now.

Representative Damschen: Stigma attached to drugs. AA was very successful. One of their big things was the person had to admit that they were an alcohol problem. Are you saying this is not working any more?

Pam: If someone comes in with a high blood sugar do we say, you made bad choices, so we are done with you? No, we say that we will give you the services you need to make better choices and find help.

Representative Damschen: I don't think that is a good comparison

Representative Skroch: Do you have yearly costs for our state?

Pam: There will be testimony in regard to that

Tina Gress, Vice President of Community Options
(Attachment 5)

We work with a large population of these people. If they say they have a problem, it is written into the job plan. They will have things set up for them and if they are not compliant with their employment plan they are kicked off the program. If they get employment, then the employer will usually do a drug test.

If we go to the house and find evidence of alcohol or drug paraphernalia we contact

Representative Schneider: Do you include alcohol?

T. Gress: Yes, we do include alcohol.

Representative Seibel: Are your visits announced or unannounced?

T. Gress: Usually announced. We have to have their paystubs, so we go after them to get that information.

Representative Seibel: If the employer does the drug test and they fail do you know?

T. Gress: Not always.

Representative Devlin: What is the % of those that are not employee eligible.

T. Gress: Several different criteria for employment. If they give us information about their issues such as needing child care, transportation to get to work.

T. Gress: percentages in December of 2016

Representative Porter: Do all of them do the same things or are you the shining star?

T. Gress: Have to follow federal guidelines, but how we implement those might be different.

Representative Porter: if we pass this so they all do it like you do How long would it take before it would be put into effect?

T. Gress: It is usually a 2 year contract, but it would depend on how their contracts are set.

Representative Porter: Could we set something up so that you could do more of this and get the information to the right places. Are you a pathway to help them recognize their problem and then to have them receive services.

T. Gress: Yes, I would like to think we can always get the referrals to them.. My problem would deal with the cost of that. My staff are not addiction counselors, so it would take training and there could also be liability if they are made to take the test and then they are negative they could sue us.

Representative Porter: I don't see that many issues in the way of putting this into something that would work in a better way instead of being punitive. Couldn't we be the pathway to help?

T. Gress: I am just the little guy, so I am not the one to ask.

Chairman Weisz: Aren't you going to be aware of why the people are not hired if they failed a drug test.

T. Gress: We would probably be given that information unless they did not tell us they were going for an interview.

Representative Westlind: You said that you use the same test. Do you have a special person or special place to do this test?

T. Gress: No, we tape off the sink, but they can close the door.

Chairman Weisz: Further testimony in opposition to HB 1308?

Christopher T. Dodson, Exe. Dir. ND Catholic Conference
(Attachment 6)

Chairman Weisz: Questions from the committee?
Further testimony in opposition? Seeing none,.

Chairman Weisz: Neutral testimony on HB 1308

Carol Cartledge, director of the Economic Assistance Division
(Attachment 7)

Chairman Weisz: Are there any questions from the committee?

Representative Porter: In your last paragraph, a test would be a covered expense?

C. Cartledge: The treatment is covered, not the test.

Representative Porter: It says general fund, so why can't this be covered.

C. Cartledge: Funds have been allocated for the next biennium already.

Representative Porter: Can we use this as a pathway to treatment inside of the program that you currently run?

C. Cartledge: There might be a way.

Representative Porter: How many individuals on TANF not counting Grandma and Grandpa are not under contract.

C Cartledge: About 50/50

Representative Porter: So more than half are just taking care of a child, but not in the employment program.

Representative Skroch: Dollar amount is the amount to run the program for a year?

C. Cartledge: The amount I quoted was from July of 2015 to Sept. 2016

Chairman Weisz: How many people?

C. Cartledge.

It would be difficult to know this, because they can apply online without coming in.

Representative Damschen: Could this help someone be identified with a problem and then receive the help that they need?

C. Cartledge: If a TANF recipient is not spending the money for the kids, a payee would be appointed and then the children would be taken care of and that would enable the parent to receive help.

Chairman Weisz: What do you have to do to get TANF

C. Cartledge: Meet eligibility financial and nonfinancial then be referred to the jobs program, employed or. looking for work. It require them to get whatever they need English classes, etc. The goal of the TANF program is to get everyone employed and then off of all assistance.

Chairman Weisz: Further questions from the committee? Hearing none.

Chairman Weisz: Further testimony in regard to HB 1308?

Close the hearing on 1308

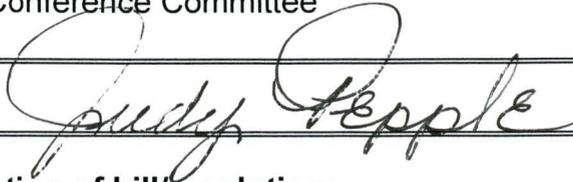
2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1308
2/6/2017
27686

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to drug testing for needy families for temporary assistance.

Minutes:

1

Chairman Weisz: called committee back to order and opened the hearing on the discussion on HB 1308

Rep. Daniel Johnston
(Attachment 1)
5:13

Chairman Weisz: Are there any questions from the committee?

Representative Schneider: On the fiscal note on this there were a number of things that were not included that will need to be considered that would greatly increase the cost of this to the state. Do you know how much it costs to pay a representative payee which has the duty of seeing that the children are fed and so forth. It would require considerable time and expense?

Rep. Johnston: We envisioned it to be on a volunteer basis. It could be religious groups, community groups, family member that would perform that duty.

Representative Schneider: Do you know that we pay as a state for representative payees under some circumstances?

Rep. Johnston: No I did not, but that is a vision in the bill.

Representative Schneider: Could it be possible that you can't get volunteers to do this?

Rep. Johnston: I really don't envision that to be a problem. I talked to members of my church. It was just one church in Valley City and I had multiple people say that they would volunteer to do this.

Representative Schneider: Leaving that aside for a moment, because I know payee programs and I know that you are going to have trouble finding volunteers once they find out what their duties are. Other things that were left out of the test. I don't see any provision here for individuals to watch this test being given which we were told was part of this.

Rep. Johnston: That is something that could be tweaked in the bill. I don't foresee it as being a real formal drug test as they currently do in city/county health. Like I said they administer that drug test for \$8.

Representative Schneider: We had testimony that this would have to be a watched test and so you need to pay somebody to watch the test and that is not in this fiscal note. Let's move on though, because there are other things that are not in here. Foster care, extremely expensive and hard to find foster care parents. If you find that a person has a drug issue from the drug test, what is going to be a cost, if we can even find foster parents, per month for providing foster care since most individuals are single custodians.

Rep. Johnston: I don't quite understand the question. There is no provision for foster parents in the bill and this bill does not have any stipulation that children be removed from the home.

Representative Schneider: Do you know the current law that if a child is at risk, which is what you are trying to show here, then there has to be action taken in protective services to do something about that. The cost of that is going to be extremely expensive if we can find foster parents in situations where there is a drug issue. Then there is the cost of behavioral health. We only serve 9% of the people that need behavioral health services which I assume you want people to go into here. Have you built in the cost of funding those services?

Rep. Johnston: In the bill we put a stipulation that the applicant would be responsible for the cost of the addiction counseling or Medicaid if that's what they have.

Representative Schneider: We pay these folks \$274/month to live on. Do you think they are going to pay for behavioral health services and where are we going to get them? Was that a consideration in this?

Rep. Johnston: Yes, that was a consideration. That is why I put in the bill that they would be responsible. I understand the financial constraints of the state right now. I understand that is not a perfect scenario.

Representative Schneider: It is not only not a perfect scenario we don't have those services available. There was testimony that in the counties where this might apply those services are not available. I am not trying to be mean to you, but this is not well thought out, it shows that considerations within the system are not factored into this fiscal note. Even considerations in the drug testing itself are not considered in this fiscal note. Do you realize that in the states that have done this testing the most they have ever found is 1 – 2% of the people tested had an issue.

Rep. Johnston: That is actually not the case. In the state of NC 24% of those tested tested positive. That is a pretty significant number.

Representative Schneider: The testimony from the department said 1 – 2%, so that is what I was going by.

Representative McWilliams: When looking at this bill in other states, what have they done to distribute food and resources to the children? Is this modeled after a successful program?

Rep. Johnston: Tennessee is what this bill is most closely aligned to and yes, they do have a designated payee there.

Chairman Weisz: Further questions from the committee?

Representative Schneider: Do they pay those representative payees in Tennessee?

Rep. Johnston: As far as I know they don't, but I don't know for sure.

Representative Damschen: Do you think the children involved in these homes area at greater risk because the parents in these homes are using welfare money to purchase drugs than they would be if there weren't found out?

Rep. Johnston: That is the point of the bill. To be sure that the benefits do go to the children who are most likely in this situation and not go to a parent that is using it for drugs.

Representative Damschen: I just wanted to clarify that.

Representative Schneider: Do you have concern for the families that are no longer under social services control and not receiving any benefits for food and basic necessities once they have been intimidated off this by refusing to take a drug test? Do you have concerns for the welfare of those children? That is where you are saying the real savings is. People dropping out of the program. Is that not a cause of concern?

Rep. Johnston: This bill is not to prevent the children from getting benefits and there is a stipulation that they will. Even if a person tests positive they will still get the benefits. Yes, I do have great concern for people that are using drugs and have children in the home.

Chairman Weisz: Are there further questions for the committee? Is there any other testimony on HB 1308? Seeing none, we will close the hearing on HB 1308.

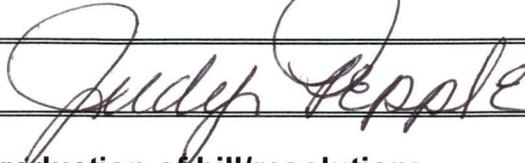
2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1308
2/6/2017
27937

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to drug testing for needy families for temporary assistance.

Minutes:

Chairman Weisz: Called the committee back to order and opened the discussion on HB 1308. First I want to take a look at the amendments. You should have amendment 02001. It was offered in addition to TANF.

Representative P. Anderson: I think that this is a really bad idea. I would vote no on that one.

Vice Chairman Rohr: I make a motion to pass the amendment to HB 1308.

Chairman Weisz: Is there a second? Seeing none, motion fails for lack of a second.

Representative Porter: The amendment handed out is kind of a summary of what we had late in the discussion of the bill in with Community Options and what they are doing. I think this amendment has a lot of merit. I think it is not a punitive policy of the state. I think some people inside of 1308 were looking at a punitive system. I think this is looking at an addiction system and it is looking at the individuals that are on the employment plan and the screening tools available for those contractors or subcontractors to the state. The purpose is to get them into treatment if it is needed. I think this is exactly the method that we should be looking at and taking. I move would move the amendment.

Vice Chairman Rohr: seconded

Chairman Weisz: Do you need an explanation of TANF? It is a cash assistance program. TANF requires that the participants engage in work related activities. They have to either be working for 20 hours a week or looking for a job or doing activities that will qualify them for a job. Every TANF participant has to meet with a job contractor. That is what this amendment is referencing. That job contractor works with that participant to come up with a plan to either get the job training or their GED, which qualifies everything up through secondary education, help them work for their job interviews, etc. They are hoping to help them to get off TANF. That is the goal. Get them a job and get them in the workforce. What this amendment is

going to do is say within that job contractor they will be screening that person to see if there may be a drug addiction issue and if there is they will be referred to appropriate treatment services. So it is not going to kick them out of there, this would be part of their overall program now. They will be screening them. That doesn't necessarily mean they will be doing a drug test. By screening they go through a list of things, they are trained to ask the right questions, and if they are having an issue then they go through intervention and then they are given the proper services they need so they can get their job. As it was pointed out in the testimony, if this person goes to the job interview, does a drug test, and doesn't get the job, they don't necessarily know that. The employer that does the interview doesn't have to release that to the jobs contractor. This way the jobs contractor has the ability to get in there and find out if there is an issue so they can get the proper treatment. Like some of the other programs where they just qualify for assistance based on their income level TANF is different. It requires active participation by the person receiving the services. There is a 5 year time limit and some other things. This will expand that.

Vice Chairman Rohr: The 5- year time limit? What does that mean?

Chairman Weisz: The TANF benefits are limited to 5 years during your life time, unless you are in a place where the unemployment rate is 50%. Then the limit doesn't apply. Within your lifetime you get a maximum of 5 years of TANF. That can be broken up, it is not 5 years straight. You can go on TANF for 6 months and then go off and come back a year later.

Vice Chairman Rohr: When they do the screening what happens to that information.

Chairman Weisz: It is maintained, but that is confidential. The information is there, but it is not available to you and me. TANF isn't public.

Are there questions on the amendment? Instead of just random drug testing, we are doing an intervention. Drug testing may be part of it, because the jobs contractor has a lot of leeway here in working with their clients. They can require a drug test and the state will pay for it.

Vice Chairman Rohr: Is there an algorithm that these job contractors will have available to them so that they can go through the list. Do they have a process to follow?

Chairman Weisz: The department has a training program to train those contractors so they know what to look for and how to decide what needs to be done. The job contractor has a lot of power and if the person doesn't comply they can they are out of TANF. It is pretty tough already. Like if they don't comply with the 20 hours a week they can be taken off TANF.

Representative McWilliams: This amendment takes the place of the rest of the bill.

Chairman Weisz: Yes, that is correct.

Representative McWilliams: Then it shifts the burden from the department on to the employer.

Chairman Weisz: It says that it shifts it to the job contractor. Not the employer that might hire the person, but the jobs contractor.

Vice Chairman Rohr: What is the job of the contractor and who supervises them?

Chairman Weisz: The jobs contractor could be called a cheerleader in some respects. It is their job. Every client has to meet with a jobs contractor. They make a plan for them to meet the requirements to get a job. It could be education or whatever they need to get off of TANF. It is their job to help the participators to get what they need to get meaningful employment and eventually get off of TANF.

Vice Chairman Rohr: Is TANF the employer of the contractor?

Chairman Weisz: We are contracting. The state contracts with these entities to provide these services to the client and then the client, of course, hopefully gets a job with an employer. Is there any further discussion on the amendment?

Voice vote to accept the amendment

Motion is carried to accept the amendment to HB 1308.

Chairman Weisz: What are the committee's wishes?

Representative Skroch: I move for a do pass on HB 1308 as amended.

Chairman Weisz: Second by Vice Chairman Rohr.

Is there further discussion on the bill?

This is now the whole bill. The amendment becomes the bill.

Chairman Weisz: the clerk will call the roll for a do pass as amended on HB 1308.

Roll call vote taken. 10 yes 2 no 2 absent.

Motion carried.

Chairman Weisz: Volunteer to carry this one?

Vice Chairman Rohr will carry it.

February 6, 2017

Handwritten:
2/16/17
193

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1308

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 1 of section 50-09-29 of the North Dakota Century Code, relating to mandatory addiction screening for temporary assistance for needy families program individual employment plan participants; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-09-29 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsections 2, 3, and 4, the department of human services, in its administration of the temporary assistance for needy families program, shall:
 - a. Provide assistance to otherwise eligible women in the third trimester of a pregnancy;
 - b. Except as provided in subdivision c, afford eligible households benefits for no more than sixty months;
 - c. Exempt eligible households from the requirements of subdivision b due to mental or physical disability of a parent or child, mental or physical incapacity of a parent, or other hardship including a parent subject to domestic violence as defined in section 14-07.1-01;
 - d. Unless an exemption, exclusion, or disregard is required by law, count income and assets whenever actually available;
 - e. Except as provided in subdivision j, and as required to allow the state to receive funds from the federal government under title IV-A, provide no benefits to noncitizen immigrants who arrive in the United States after August 21, 1996;
 - f. Limit eligibility to households with total available assets, not otherwise exempted or excluded, of a value established by the department;
 - g. Exclude one motor vehicle of any value in determining eligibility;
 - h. Require work activities for all household members not specifically exempted by the department of human services for reasons such as mental or physical disability of a parent or child or mental or physical incapacity of a parent;
 - i. Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies and establish numerical goals for reducing the illegitimacy rate for the state for periods through calendar year 2005;

2013

- j. To the extent required to allow the state to receive funds from the federal government under title IV-A, provide benefits to otherwise eligible noncitizens who are lawfully present in the United States;
- k. Establish and enforce standards against program fraud and abuse;
- l. Provide employment placement programs;
- m. Exempt from assets and income the savings and proportionate matching funds in individual development accounts;
- n. Determine the unemployment rate of adults living in a county that includes Indian reservation lands and a significant population of Indian individuals by using unemployment data provided by job service North Dakota;
- o. When appropriate, require household members to complete high school;
- p. To the extent required to allow the state to receive funds from the federal government under title IV-A, exempt single parents from required work activities;
- q. Provide for sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;
- r. Provide for sanctions, including termination of assistance to the household, if a household member fails, without good cause, to cooperate with child support activities;
- s. Deny assistance with respect to a minor child absent from the household for more than one calendar month, except as specifically provided by the state agency for absences;
- t. Require each household to participate in developing an individual employment plan and provide for sanctions, including termination of assistance to the household, if adult or minor household members age sixteen or older fail to cooperate with the terms of the individual employment plan;
- u. Provide pre-pregnancy family planning services that are to be incorporated into the temporary assistance for needy families program assessment;
- v. Except in cases of pregnancy resulting from rape or incest, not increase the assistance amount to recognize the increase in household size when a child is born to a household member who was a recipient of assistance under this chapter during the probable month of the child's conception;
- w. Disregard earned income as an incentive allowance for no more than twelve months;
- x. Require each individual employment plan participant undergo a mandatory addiction screening, using a screening tool approved by the department. The department shall provide training to the jobs opportunity and basic skills program contractors on the use of the

303

screening tool. Individual employment plan participants who are identified, via the screening tool as at-risk for an addiction, shall be referred to appropriate treatment services. The jobs opportunity and basic skills program contractor may seek assistance from the department to identify appropriate treatment;

- *-y. Consider, and if determined appropriate, authorize demonstration projects in defined areas which may provide benefits and services that are not identical to benefits and services provided elsewhere; and
- y-z. Unless at least seven years has elapsed since the most recent felony conviction that has as an element the possession, use, or distribution of a controlled substance, deny assistance to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].

SECTION 2. EFFECTIVE DATE. This Act becomes effective on April 1, 2018."

Renumber accordingly

Date: 2-6-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1308

House Human Services Committee

Subcommittee

Amendment LC# or Description: 17.0771.02003

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Porter Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

*Vote to accept
vote the amendment.
Vote carried*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-6-17
 Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1308

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Skrock Seconded By Rep. Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson	✓	
Vice Chairman Rohr	✓		Rep. Schneider		✓
Rep. B. Anderson	ab.				
Rep. D. Anderson		✓			
Rep. Damschen	ab				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams	✓				
Rep. Porter	✓				
Rep. Seibel	✓				
Rep. Skrock	✓				
Rep. Westlind	✓				

Total (Yes) 10 No 2

Absent 2

Floor Assignment Rep. Rohr

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1308: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1308 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 1 of section 50-09-29 of the North Dakota Century Code, relating to mandatory addiction screening for temporary assistance for needy families program individual employment plan participants; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-09-29 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsections 2, 3, and 4, the department of human services, in its administration of the temporary assistance for needy families program, shall:
 - a. Provide assistance to otherwise eligible women in the third trimester of a pregnancy;
 - b. Except as provided in subdivision c, afford eligible households benefits for no more than sixty months;
 - c. Exempt eligible households from the requirements of subdivision b due to mental or physical disability of a parent or child, mental or physical incapacity of a parent, or other hardship including a parent subject to domestic violence as defined in section 14-07.1-01;
 - d. Unless an exemption, exclusion, or disregard is required by law, count income and assets whenever actually available;
 - e. Except as provided in subdivision j, and as required to allow the state to receive funds from the federal government under title IV-A, provide no benefits to noncitizen immigrants who arrive in the United States after August 21, 1996;
 - f. Limit eligibility to households with total available assets, not otherwise exempted or excluded, of a value established by the department;
 - g. Exclude one motor vehicle of any value in determining eligibility;
 - h. Require work activities for all household members not specifically exempted by the department of human services for reasons such as mental or physical disability of a parent or child or mental or physical incapacity of a parent;
 - i. Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies and establish numerical goals for reducing the illegitimacy rate for the state for periods through calendar year 2005;
 - j. To the extent required to allow the state to receive funds from the federal government under title IV-A, provide benefits to otherwise eligible noncitizens who are lawfully present in the United States;
 - k. Establish and enforce standards against program fraud and abuse;

- l. Provide employment placement programs;
- m. Exempt from assets and income the savings and proportionate matching funds in individual development accounts;
- n. Determine the unemployment rate of adults living in a county that includes Indian reservation lands and a significant population of Indian individuals by using unemployment data provided by job service North Dakota;
- o. When appropriate, require household members to complete high school;
- p. To the extent required to allow the state to receive funds from the federal government under title IV-A, exempt single parents from required work activities;
- q. Provide for sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;
- r. Provide for sanctions, including termination of assistance to the household, if a household member fails, without good cause, to cooperate with child support activities;
- s. Deny assistance with respect to a minor child absent from the household for more than one calendar month, except as specifically provided by the state agency for absences;
- t. Require each household to participate in developing an individual employment plan and provide for sanctions, including termination of assistance to the household, if adult or minor household members age sixteen or older fail to cooperate with the terms of the individual employment plan;
- u. Provide pre-pregnancy family planning services that are to be incorporated into the temporary assistance for needy families program assessment;
- v. Except in cases of pregnancy resulting from rape or incest, not increase the assistance amount to recognize the increase in household size when a child is born to a household member who was a recipient of assistance under this chapter during the probable month of the child's conception;
- w. Disregard earned income as an incentive allowance for no more than twelve months;
- x. Require each individual employment plan participant undergo a mandatory addiction screening, using a screening tool approved by the department. The department shall provide training to the jobs opportunity and basic skills program contractors on the use of the screening tool. Individual employment plan participants who are identified, via the screening tool as at-risk for an addiction, shall be referred to appropriate treatment services. The jobs opportunity and basic skills program contractor may seek assistance from the department to identify appropriate treatment;
- ~~x-y.~~ Consider, and if determined appropriate, authorize demonstration projects in defined areas which may provide benefits and services

that are not identical to benefits and services provided elsewhere;
and

y-z. Unless at least seven years has elapsed since the most recent felony conviction that has as an element the possession, use, or distribution of a controlled substance, deny assistance to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].

SECTION 2. EFFECTIVE DATE. This Act becomes effective on April 1, 2018."

Renumber accordingly

2017 SENATE HUMAN SERVICES

HB 1308

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1308
3/13/2017
Job Number 29090

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to mandatory addiction screening for temporary assistance for needy families program individual employment plan participants; and to provide an effective date.

Minutes:

6 Attachments

Chair J. Lee: Brought the public hearing to order, all members were present.

Representative Daniel Johnston, District 6 (0:05-6:00) introduced the bill, please see attachment #1.

Chair J. Lee: How many were tested in Tennessee?

Rep. Johnston: I'm not sure.

Chair J. Lee: Do you know that all the people who refused to participate did so because of the drug test?

Rep. Johnston: I took it to mean that they started the application process, some just didn't show up once they found out they were required to take a drug test. But you could be right, they might not have shown up because they are irresponsible.

Senator Heckaman: Of the 1239 TANF applicants, how many are in the JOBS program that would be undergoing mandatory screening?

Rep. Johnston: I'm not sure.

Senator Anderson: Is there any data on those individuals that were denied to see what happened to them or the kids afterwards?

Rep. Johnston: I'm not aware of any data that would reflect that.

Senator Tom Campbell, District 19: Sub-section x, current law states that the procedure going through assessment, we can do that now, this puts a little more teeth to send a

message; we all share the same goal, we don't want drugs in the family, I'm afraid we're sending a message, most North Dakotans aren't in the specifics of how this program will be implemented, at the end of the day all they see is the message that nobody wants to pursue drug users. There's only 550 families, there's skewed information in the testimony. My point is bill was defeated in Senate, I had hundreds of emails from dissatisfied constituents, we've softened it from the Senate bill, it's very close to statute law, states on line x that we can do addiction screening.

V-Chair Larsen: What's the difference between this and the one that failed?

Sen. Campbell: Not much.

Chair J. Lee: The state can do that now, if the eligibility workers feel that's it's an appropriate thing.

Sen. Campbell: It just states that they can do screening for addiction. The private contractors or the State could do that before, this is sending a message that we don't want to see drugs in TANF families.

Senator Heckaman: What's the reason for the effective date, April 1st 2018.

Rep. Johnston: Good question, I'm flexible on the date.

Chair J. Lee: Why would you have chosen that date, since it's not the usual?

Rep. Johnston: I don't recall.

V-Chair Larsen: Do you think this bill is part of the frustration of the working class folks and people working in industries that have to take a drug test and they feel put out, they hear that people on welfare aren't getting tested. Is it an issue like that?

Rep. Johnston: It could be, to me it's moral dilemma; is it responsible for us to say we'll buy food and gas and take care of the kids, you buy drugs?

Chair J. Lee: The concern is the impact on children in that household.

Senator Kreun: The 1st sentence, most families have children. We spend lots of money for kids with disabilities, why wouldn't we want to avoid that by testing just to make sure? This is a screening, it's a tool to make sure along with this, I would like to see it happen just because of the children there, get those people into a program, no different than any program we provide, to intervene so those children aren't exposed to the drugs, if there are drugs. It's not that invasive, everyone keeps saying this is invasive, we do these things all the time, just to be preventative.

Rep. Johnston: Before it was amended, I specified that even if somebody did test positive, that a designated payee would distribute the funds to the children. With this bill, even if somebody does test positive, I don't think that they will be denied benefits, it's to encourage treatment.

Chair J. Lee: The example about the questions that were asked about medical marijuana here, that can't be a question here anymore.

Sen. Campbell: Initially, it was for drug testing, which was amended out, that's why she thought it would take that long to adapt and become educated on in, after the amendment, we didn't change the date.

Senator Piepkorn: You just want to send a message; what's the message, and to whom?

Sen. Campbell: I see the message, especially when this lost, see, you aren't going to stop drugs. That's not the intent, but that's the message. The perceived message is that we don't care.

Senator Heckaman: I go back to the original testimony, it can already be done, what have you done for the 2 families in your district? Why are we going here?

Sen. Campbell: Because in sub section x, the contractors who are screening are not pursuing it, it will send more of a message; we want you to pursue those people.

Senator Heckaman: You have other options you could have used for those two families in your community.

Sen. Campbell: Yes, possibly.

Senator Piepkorn: The hundreds of emails you got, were they out of concern that the families who are not being drug tested are not being allowed the opportunity they need or were they more about outrage over these drug addicts getting money from the state they don't deserve?

Sen. Campbell: The latter. The big problem is food stamps, federal law mandates that we cannot drug test. This is a side door entrance; we're trying to send the message there. I did the procedure, it's very simple. It's not too invasive for people in the workforce that have to do it, so why should it be for families.

Senator Clemens: I also have a CDL license, I need to take a drug test, my employees take the test, I'm in favor of this, the reason is this, if there was no drug testing on heavy equipment operators, I don't think anybody would be in favor of that, because you're going to be allowing more people on drugs operating heavy machinery if the drug test wasn't there. It is a deterrent; I don't hear anybody complaining about not giving test to a truck driver because now his family can't get food, so that would be a reason to let him drive. I don't think the argument that we're endangering the children by drug testing, we're actually helping those children by getting the person who tests positive into a program.

Senator Kreun: I think if you read this portion of the bill; their going for employment under this part of the bill, a contractor uses the screening tool, they are referred for services. We're doing two things: trying to keep the family from having drugs, and we're preparing this individual for job development.

Kathrine Bohner (25:25-27:15) The number that you are looking for is 347 cases in North Dakota. She has seen TANF benefit parents working to get out of poverty; believes this bill will send the wrong message, that TANF recipients are addicts.

Senator Clemens: You mentioned sending the wrong message to people because it's directed at poor people. Do you feel that company owners that are required to take the test, what is the reason they should feel targeted?

Ms. Bohner: A lot of industries require drug testing and mandatory reporting. I'm trained to recognize if someone is using drugs on the job. I'm not against using those tools, those tools are in place for people to use, companies are free to drug test people. That's a stipulation of employment, that's well within the right of the industry; I don't think it should be a requirement, instead of being at discretion of the case worker, it's mandatory.

Senator Clemens: It is mandatory, for many areas in our country right now, would you agree that it's not targeting poor people?

Ms. Bohner: This particular bill is targeting poor people because it is targeting TANF recipients. So yes, there's drug testing in other spheres of our world, this bill does not speak to that.

Senator Clemens: We are looking at this in this bill, but there are many other people who are tested: are they being targeted?

Ms. Bohner: But his bill isn't about those people.

Susan Beehler (30:55-40:40) Truck driver and former recipient of TANF. Applied for TANF when first husband left her; did not know TANF benefits were tied to child support. Feels like the state is punishing single mothers. Stated that drugs cost more than TANF funds received monthly. She is concerned that the state is going to raise property taxes to pay for this.

Senator Anderson: You mentioned these people on TANF, it's known by the social worker that they have a drug problem why do you see that they're not getting treatment now, or not being referred to the treatment that is available why is that happening now?

Ms. Beehler: Your question is because you don't understand the problem with drug addiction. In that aspect the treatment isn't a simple thing, it's not like you give them a shot; drug addiction is complicated. That to me should be part of the services. One of things is, that not everybody responds to the same kind of treatment.

Senator Anderson: One of the sentences in the added language says that via the screening tool those at risk for addiction shall be referred to appropriate treatment services. Apparently that's not what's happening now. So this bill is trying to get us through our social services network to refer them to appropriate treatment services.

Ms. Beehler: They're being referred, whether they're following through or not. Just because you're saying they shall be referred doesn't mean they shall be cured. The people

coming to our regional council meetings, they know that there's people with drug problems. It's a complicated issue, it's not going to be solved by a pee cup. It's a mandate coming down from the state, there is no fiscal note attached to this, if the state wants to do this, come up with the cost that it's going to be.

V-Chair Larsen: Do you have statistical data on how many individuals come forward to seek drug addiction therapy?

Ms. Beehler: That's a question of DHS.

Senator Clemens: It seems like you're of the opinion that state of North Dakota isn't doing much from the human services department in trying to help drug addiction. We have spent hours this session in this room trying to help drug addiction; one of the focuses this session is keeping people out of prison and getting them into help, this bill is trying to do that. This bill would save that person from going to prison. That is one of the most expensive ways to address a drug addiction problem. You don't feel there's a whole lot being done. I want to clarify there's a lot being done to help. We're not after them. This is going to be another little stepping stone for prison, by turning our backs on people.

Ms. Beehler: What my message is, is North Dakota mandating something for counties to cover. This is a cost that could be used towards drug treatment. There's already a means to ask for the drug test.

Senator Clemens: An \$8 dollar drugs test is cheaper than putting them in the county jail.

Ms. Beehler: Yes, but it's a broad sweep. It's not just for drug addicts, it's for people that were in my circumstances. I'm a good person. One of the Senators used that term in his testimony. Good people are emailing him asking for the drug test, I don't believe that property tax should be paying for drug tests. I'd rather have my money going to pay for drug treatment.

Chair J. Lee: Two things I want to clear up: the state isn't responsible for property taxes, those are county, school, city, park district. What we have done on the state level to address the property tax concerns is to send more money to schools. There is a bill which would take the cost of social services out of counties and move it to a state responsibility. This is an unfunded mandate to counties, you are right. Part of it comes through the Feds and gets passed to the counties. SWAP isn't working, we're looking at it, it's an important thing. This is tax reform, as important things like child support and foster care increase.

Gretchen Deeg (Please see attachment #4) The 65 people who tested positive for drugs was out of 39,121 people. The total cost in the first 2 years was \$23,592. It was deemed a failed program in Tennessee. This is modeled after a failed program from another state.

Hillary Starke (please see attachment #5) I feel that this bill is the wrong starting point for getting people who are addicted into therapy. What really need to change is the criminal code. The people who are addicted to drugs, you're asking them to decide whether or not they care for their children addiction more. By forcing them the make that decision you are putting the lives of these children in danger of not having what they need, because they are

opting out of programs, they don't want to admit they are drug addicts, if they admit that, they could get charged. If we want to keep people who are addicted to drugs in family units, taking care of their children, receiving benefits and coming out of therapy successfully, we need to change the criminal code, so when people are arrested for drug possession or for drug use, they are put into treatment at that point before they have to make the decision between my drugs or my children. Addiction is complicated a health issue, not necessarily a choice.

Chair J. Lee: We are looking at changing those mandatory sentencing laws.

Ms. Starke: If it's about the children and keeping them safe, keeping their benefit, I believe it needs to start in the criminal code. We're skipping a step.

Senator Kreun: So you believe that letting these people continue to have a drug addiction problem within the family until they get caught into the criminal justice system is ok.

Ms. Starke: I believe that people who are addicted to drugs have people around them who know, and the reason that they aren't being pushed or turned into the police is because they have the fear that the children are going to go into the foster care system. I think that having a criminal code that reinforces rehabilitation versus incarceration is going to help these people around addicts be more active in helping get these people into treatment.

Senator Kreun: If you read this, this is a proactive bill to keep these people out of the incarceration system. If you read this the treatment tool is there for appropriate treatment services by the Department, which I don't think is county money. You have a tool to keep the family together. It doesn't say you're going to split the family up and put them in the foster care system.

Ms. Starke: I'm opposed to the bill because it puts a financial aspect to the addicts in it. Now they have to choose whether or not they're going to get benefits or go to treatment.

Melissa Hammond (56:30-1:01:25) Husband became drug addicted, had to apply for welfare services, the only thing that would have made the situation worse would have been a drug test. Ex-husband is a veteran, took 3 months to be accepted to a treatment center, in Minnesota.

Dr. Ellie Shockley (Please see attachment #6) (1:01:35-1:04:05) My father drove truck; I agree with everything said. I find the argument that truck drivers are subject to testing, why can't the recipients be tested. The comment was made that no one is complaining about those folks being tested. Actually they are. These drug tests are crude; they aren't geared towards addressing the issue. Taking the fact that a truck driver may resent this invasion and exploiting that resentment to motivate this screening of poor people it seems unfortunate. That's not a legitimate argument. These are crude measures, it's not nice to pit people against each other.

Jessica Jarmin (1:04:20-1:08:00) This conversation is missing an entire context; over 39,000 people were tested in Tennessee to find 65. If we're screening 347 people in North Dakota, we're having an argument over 1 person, maybe, who will be referred. We're asking

people to determine eligibility, to do screening, they're not qualified, they're not equipped, they can't visually look at someone to see addiction. These are eligibility workers, these are programs that are already over-taxed, the eligibility process is extensive, if we add another requirement, adding more to that budget and making it harder to get benefits out to the people that need them. So that's 346 people who do need TANF. The other part we're not addressing why people are in poverty if we're going to screen them, we need to screen why they're in poverty and address the root issue. This is a temporary program.

Senator Kreun: Social workers aren't doing the testing, if you read the bill, the Department shall provide training to the JOBS contractor on the uses of screening tools.

Neutral

Carol Cartledge, Director, Economic Assistance Policy Division, DHS (1:09:25-1:12:20) testified neutral please see attachment #2, #3.

Senator Heckaman: Are you expecting those contractors to be doing the assessments or are you expecting to hire other individuals to do the JOBS contractors use a screening tool. How do you expect the people to be doing this?

Ms. Cartledge: It would be done through the employment contractors that we currently have today. It wouldn't be a different contractor.

Senator Heckaman: Do I have to go and see one of these individuals, or do they come to me?

Ms. Cartledge: It depends on where you live, and the employment contractor. Some of them do home visits, if the individual can't come to the office, which are located throughout the state.

Senator Anderson: Tell us what happens as a result of this assessment.

Ms. Cartledge: The applicant specifies what sort of assistance they need; the results are put into an employment plan; they identify how they're going to address that. If they identify a substance abuse issue, they are going to make a referral for closest place they can go in for an assessment, follow through with treatment, whatever the provider states they need to do is what they would have to follow through with.

Senator Anderson: What if they check the first box that says I don't want to answer any questions about this?

Ms. Cartledge: If they say they don't want to answer the questions today, they would not be forced to answer them. But then it would fall back to their behavior. If their behavior indicates something, then we could use that. We could identify that and refer you to a provider for an assessment.

Senator Heckaman: The way the bill is worded; each individual employment plan participant undergoes a mandatory addiction screening. I'm questioning the word addiction. We've been talking about drugs, but it's more expansive than that.

Ms. Sagness: The addiction assessment would be all encompassing of something that could be an addictive substance.

Senator Heckaman: But it can be gambling? No?

Ms. Sagness: At this time the current assessment tools don't typically consider both behavioral addictions and substance addictions, at least the ones that are currently being utilized.

Senator Heckaman: That's not what the screening asks for, it asks for addiction screening. To me it could mean that they would have to do a gambling disorder screening, tobacco?

Ms. Sagness: So currently, all of the things utilize the DSM-5, and so gambling is currently the only behavioral disorder that's identified, that falls under the scope of work that would be considered addiction practice.

Senator Heckaman: In this case that would have to be considered in here, because it just says addiction screening.

Ms. Sagness: There could be clarification, to say substance use disorder.

Senator Heckaman: We were talking about services available, and the individuals that testified here said that it's not as simple as knowing you have an addiction, could you talk about availability for services?

Ms. Sagness: This is one of the concerns we have identified in previous testimony, our concern regarding the drug testing is no longer in this bill, since it is a screening. Our concern regarding access to services would still be a concern. One of the key areas is that addiction treatment is thought of as being inpatient or residential program. In general, typically outpatient services could be offered, in North Dakota, that is a gap. The area of residence of many of the beneficiaries of the program. We can make referrals, but the types of services that would be available could be limited based on county of residence.

Mr. Jonathan Alm, Attorney, DHS: The reason for the effective date is we were looking at whether we needed administrative rules, we need the April one.

Chair J. Lee: Closed the public hearing.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1308
3/14/2017
Job Number 29180

- Subcommittee
 Conference Committee

Committee Clerk Signature

removson for Mame Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to mandatory addiction screening for temporary assistance for needy family's program individual employment plan participants; and to provide an effective date.

Minutes:

2 Attachments

Chair J. Lee: Brought the committee meeting to order. All members were present.

Senator Heckaman: This is a screening tool and she didn't have a problem with that but she had concerns that there is no fiscal note attached to this bill. It states that the department shall provide training but that training will need some type of a FN. The 2nd part she didn't like was line 18, appropriate treatment. There isn't access to that right now and she felt they couldn't figure that out until all the behavior programming that is needed is set up with all the other bills. The interventions have to be out there or this is meaningless. A person can become a high risk on screening tool 6 months without 1 ounce of help. There could be high risk people that aren't going to get screened that aren't in the TANF program that need more treatment than some of the TANF recipients. She didn't feel there would be treatment available and they aren't going to get back on TANF if there isn't the opportunity for treatment.

Senator Anderson referred to the testimony from Carol Cartledge. It talked about all the things the employment contractor does. One is to administer a substance abuse assessment. He sees the only difference between the bill and what is already being done is that the bill allows them the option of requiring a drug test. If the assessment proves positive, then they would be referred to the appropriate services. In spite of the fact that they may not always be available, they are already doing that. The assessment includes questions they're assessed at initial meeting. They could check "I don't want to answer any questions" and that is the only downside he can see. Then they would be out of any drug testing or treatment if they check it.

Chair J. Lee: Then they don't have to be provided services either, do they?

Senator Anderson: He didn't get the impression they would be denied any services. Talking about the problems of training, he felt these people must already be trained because they are already doing the assessment.

Senator Clemens: 50% of this assessment deals with alcohol abuse. There are programs available to help alcohol abuse. He agreed with Sen. Anderson that it's worth having the testing done. It might bring more problems to the forefront but it will probably reinforce the need to have the additional training. Also, included in the bill is job training. He feels there are positive things in it.

Senator Kreun: There is no extra training to do this minor screening test other than if they have an extra person. The statistics show you might get 1 person. How many times have we had people come in and say "if we save one life"? The point being is that we do have the opportunity to be proactive. If we're talking about kids, why do we want kids living in the situation that is potentially bad with drugs and alcohol? He didn't see anything negative in this unless they don't go to the program then they lose some of the benefits.

Senator Anderson: He pointed out that they are talking about 20,000 people in a biennium. That is a significant number and could affect the lives of some people if they had the proper care. He didn't see a big downside to this.

Chair J. Lee: Looking at previous testimony, she said it pointed out that nationally they find about 1%. That's what they have found on the state level, as well, as far as people who are exposed to drugs or indicate they are involved with drugs.

Senator Heckaman: What was the FN on the other bill? This one shows zero.

Chair J. Lee: \$158,890 on SB 2279.

Discussion followed on the cost of a screening kit which is about \$40.

0:13:15 **Chair J. Lee** read statistical information she received from Sidney Schock, a long time eligibility director in Cass County. He suggested this legislation is ill conceived and ethically onerous.

Senator Anderson felt the committee should be able to decide this one way or the other. He moved a **Do Pass on HB 1308**.

Senator Clemens seconded the motion.

Discussion followed:

V-Chair Larsen asked for clarification that this bill is dealing with the people on TANF who are in the JOBS program and the other bill was all just TANF?

Chair J. Lee replied that they were both the JOBS program.

Senator Piepkorn said there is something about this bill he doesn't like. It feels politically motivated to him. He doesn't believe the home districts are crying for help for these people. It's picking on poor people. There are plenty of people of means who have serious drug and alcohol problems. This doesn't affect them at all because they're not going to their county or social services. They're not considered, they are off the hook. The people being singled out are poor.

Senator Kreun said to read the bill. He doesn't care about the motivation behind it. This is a proactive portion that helps people. He can't help it that they are poor. That's why this program is in place, to help the poor people. This isn't a full drug test; it's just a screening. The employment plan participants are referred to appropriate treatment. This just identifies people in a family unit to get the services and treatment to try to keep the family together for the kids.

Senator Clemens: In his opinion, he didn't look at this as political. He felt that, if they don't pass the bill, they are just letting people continue to stay on the drugs and nobody will be there to help them. He really thinks this bill can help some people.

Chair J. Lee said she had the same concerns about the FN.

Senator Anderson told a story about two families in his hometown who were getting benefits and doing drugs. (00:23:15)

He looks at this bill as one more opportunity to get people like that the help they need.

Roll Call Vote 4-3-0. Motion carried.

Carrier is Senator Kreun.

Chair J. Lee closed the committee meeting.

Attachments provided for the information of the committee:

Attachment 1, Trina Gress, Vice Pres. Of Community Options, in opposition.

Attachment 2, Job Opportunity and Basic Skills (JOBS) Employment Contractor Handbook.

Date: 3/14 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1308

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen. Anderson Seconded By Sen. Clemens

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)		X	Senator Joan Heckaman		X
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn		X
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Sen. Kreun

If the vote is on an amendment, briefly indicate intent:

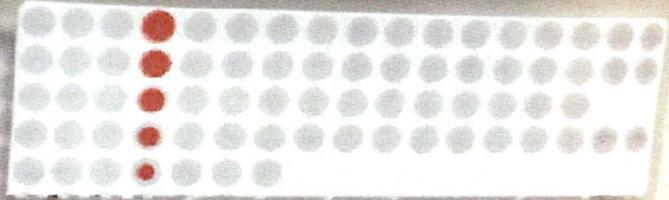
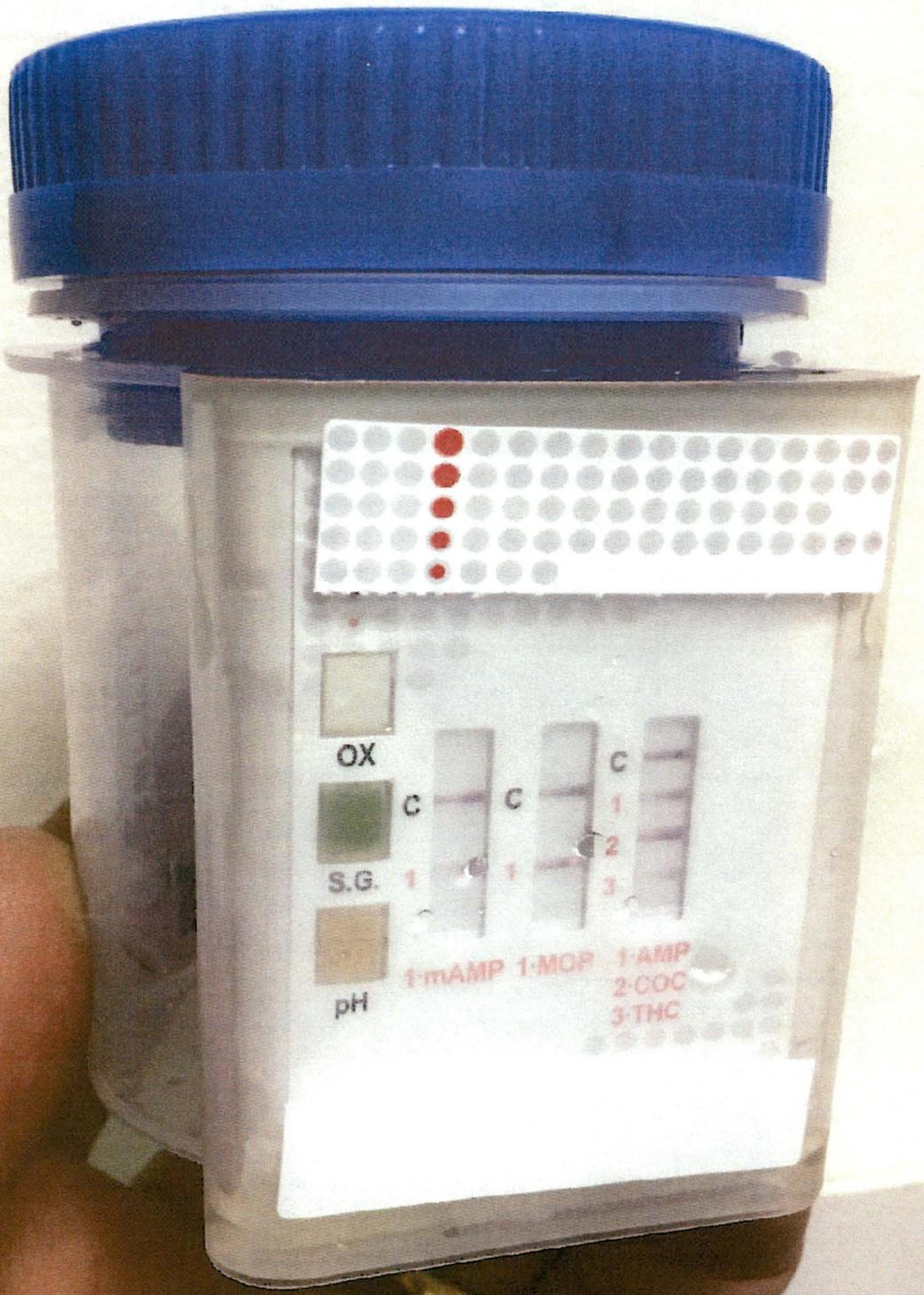
REPORT OF STANDING COMMITTEE

HB 1308, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1308 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1308

QH. 1
HB 1308
1-23-17



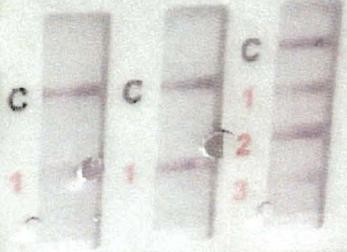
OX



S.G.



pH



1:mAMP 1:MOP 1:AMP
2:COC
3:THC

Att. 2
1-23-17
HB1308

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1308

Page 1, line 2, after "benefits" insert "; to amend and reenact subsection 19 of section 50-06-05.1 of the North Dakota Century Code, relating to drug testing for the energy assistance program; and to provide a statement of legislative intent"

Page 1, after line 3 insert:

"SECTION 1. AMENDMENT. Subsection 19 of section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

19. To act as the official agency of the state in the administration of the energy assistance program; to direct and supervise county administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits. The department shall implement a suspicion-based drug testing program for applicants of the energy assistance program."

Page 5, after line 25 insert:

"SECTION 3. LEGISLATIVE INTENT - MEDICAL ASSISTANCE DRUG TESTING. It is the intent of the sixty-fifth legislative assembly that the department of human services pursue a federal Medicaid waiver to allow the department to implement a suspicion-based drug testing program for medical assistance recipients."

Re-number accordingly

AH 3
HB 1308

**Testimony
Drug Testing of TANF Applicants
House Bill 1308
House Human Services Committee
January 23, 2017**

Chairman Weisz, members of the House Human Services Committee, I am Kim Jacobson, Director of Traill County Social Services and member of the North Dakota County Director's Association. I speak in opposition to House Bill 1308.

In North Dakota, county social service agencies are the designee of the Department of Human Services. One of the designated duties of the county social services is to administer a variety of public assistance programs including the TANF program. In this capacity, applicants applying for TANF benefits would contact the county social service office and their application would be processed by the county worker. Eligibility is determined by the county worker based on federal law and state policy. In addition, TANF benefits are subject to re-certification. This process is also done through the county office during the designated renewal period.

The number of TANF recipients in North Dakota has greatly reduced over the years. Therefore, the impact of this bill would have very limited scope. For example, according to recent statistics, Traill County has four (4) TANF households. As of December 2016, there were 1,131 TANF households statewide (See attachment). In contrast, there were 25,265 SNAP households in North Dakota in November 2016.

House Bill 1308 would require drug testing of TANF applicants if there was "reasonable suspicion." I am concerned that if enacted this bill would place the burden on reasonable suspicion upon the County. Eligibility workers determine income eligibility for economic assistance programs. Eligibility workers are not social workers nor do they have experience/education/training in detecting individuals impacted by substance abuse. It is concerning that this bill would place county staff in the position of profiling potential clients without adequate education, training, supports, or experience.

Furthermore, I am concerned that the County may be required to perform the drug testing procedures. Drug-testing is a complex process. Testing must be completed in a confidential manner with a high level of privacy and security. Individuals administering such test administers require proper training and certification. Such certification is expensive and requires periodic recertification. This is in addition to the five-panel testing supplies and if needed, confirmation testing.

As there is no fiscal note to this bill, I would assume that the cost of the certification training and supplies may fall upon the County, impacting each county social service office across the state of North Dakota. Add the cost of training/supplies/testing, risk and/or liability related to testing, in contrast with low case numbers, I urge you to consider the cost to benefit/utilization ratio.

As a county social service director I am very aware of the systemic issues created by substance abuse and how this impacts our communities. However, I do not feel that this bill solves this issue. Rather this bill may create new issues, including liabilities, which would likely result in not be the best use of public dollars. However, our behavioral health system (including substance abuse, dual diagnosis, and mental health services) is in dire need of support, funding, and program development.

I urge you to "Do Not Pass" House Bill 1308 and rather support funding and development of behavioral health services that can be available to all North Dakotans in need.

This concludes my testimony on House Bill 1308. I would be happy to answer any questions from the committee.

2

Temporary Assistance for Needy Families & Diversion Caseload
Number of Families, Recipients (Adults and Children)

December-16

Cty	TANF Families and Recipients (Includes Kinship Care)				Diversion Families and Recipients				Number of 'Child Only' Cases*
	Families	Total Eligibles	Eligible Adults	Eligible Children	Families	Total Eligibles	Eligible Adults	Eligible Children	
1 Adams	-	-	-	-	-	-	-	-	-
2 Barnes	12	35	8	27	1	2	1	1	4
3 Benson	101	274	27	247	-	-	-	-	74
4 Billings	-	-	-	-	-	-	-	-	-
5 Bottineau	3	5	-	5	-	-	-	-	3
6 Bowman	-	-	-	-	-	-	-	-	-
7 Burke	1	3	-	3	-	-	-	-	1
8 Burleigh	75	201	50	151	-	-	-	-	25
9 Cass	188	446	136	310	-	-	-	-	52
10 Cavalier	6	13	3	10	-	-	-	-	3
11 Dickey	1	3	1	2	-	-	-	-	-
12 Divide	-	-	-	-	-	-	-	-	-
13 Dunn	2	3	-	3	-	-	-	-	2
14 Eddy	2	6	2	4	-	-	-	-	-
15 Emmons	1	2	1	1	-	-	-	-	-
16 Foster	6	10	2	8	-	-	-	-	4
17 G. Valley	-	-	-	-	-	-	-	-	-
18 G. Forks	90	209	53	156	1	2	1	1	37
19 Grant	2	3	-	3	-	-	-	-	2
20 Griggs	2	4	1	3	-	-	-	-	1
21 Hettinger	2	3	1	2	-	-	-	-	1
22 Kidder	-	-	-	-	-	-	-	-	-
23 LaMoure	3	8	1	7	-	-	-	-	2
24 Logan	1	2	-	2	-	-	-	-	1
25 McHenry	2	7	2	5	-	-	-	-	-
26 McIntosh	-	-	-	-	-	-	-	-	-
27 McKenzie	11	26	6	20	-	-	-	-	5
28 McLean	11	24	4	20	-	-	-	-	7
29 Mercer	5	12	3	9	-	-	-	-	2
30 Morton	27	67	17	50	-	-	-	-	10
31 Mountrail	4	9	1	8	-	-	-	-	3
32 Nelson	1	3	1	2	-	-	-	-	-
33 Oliver	-	-	-	-	-	-	-	-	-
34 Pembina	5	12	2	10	-	-	-	-	3
35 Pierce	1	1	-	1	-	-	-	-	1
36 Ramsey	24	59	13	46	-	-	-	-	11
37 Ransom	2	2	-	2	-	-	-	-	2
38 Renville	1	2	1	1	-	-	-	-	-
39 Richland	9	28	5	23	-	-	-	-	4
40 Rolette	272	712	129	583	1	3	1	2	143
41 Sargent	-	-	-	-	-	-	-	-	-
42 Sheridan	1	2	-	2	-	-	-	-	1
43 Sioux	100	234	25	209	-	-	-	-	75
44 Slope	-	-	-	-	-	-	-	-	-
45 Stark	20	44	9	35	-	-	-	-	11
46 Steele	1	2	1	1	-	-	-	-	-
47 Stutsman	7	13	-	13	1	5	1	4	7
48 Towner	6	13	3	10	-	-	-	-	3
49 Traill	4	11	4	7	-	-	-	-	-
50 Walsh	7	13	2	11	-	-	-	-	5
51 Ward	86	202	56	146	1	3	1	2	30
52 Wells	4	9	3	6	-	-	-	-	1
53 Williams	22	44	12	32	-	-	-	-	10
Total	1,131	2,781	585	2,196	5	15	5	10	546

Regions	TANF Families and Recipients				Diversion Families and Recipients				Number of 'Child Only' Cases*
	Families	Total Eligible	Eligible Adults	Eligible Children	Families	Total Eligible	Eligible Adults	Eligible Children	
1 Northwest	33	70	18	52	-	-	-	-	15
2 North Central	98	229	60	169	1	3	1	2	38
3 Lake Region	411	1,077	177	900	1	3	1	2	234
4 Northeast	103	237	58	179	1	2	1	1	45
5 Southeast	204	489	146	343	-	-	-	-	58
6 South Central	36	84	16	68	2	7	2	5	20
7 West Central	222	545	100	445	-	-	-	-	122
8 Badlands	24	50	10	40	-	-	-	-	14
Total	1,131	2,781	585	2,196	5	15	5	10	546

* These cases are included in the total of 'Families' as the children are eligible. However, the Caretaker is not eligible and is not a parent.

#N/A

Off. 4
HB 1308

NDLA, H HMS - Pepple, Judy

1-23-2017

From: Sagness, Pamela T.
Sent: Saturday, January 28, 2017 5:20 PM
To: NDLA, H HMS - Pepple, Judy
Cc: Huwe, Julie G.
Subject: 2279 Information Requested

As requested:

Over the past several years hundreds of stakeholders in ND have worked passionately and diligently to improve behavioral health services in North Dakota. A key component of this work is the recognition that stigma exists for individuals with an addiction. An addiction that is a chronic disease – just like diabetes or heart disease. This stigma leads to individuals with an addiction being treated poorly. We have witnessed this through the criminalization of addiction. The effects of stigma include utilizing jails and prisons as “treatment” or the development of policies that “punish” individuals for their substance use. We know these efforts do not work to stop addiction, bring individuals to recovery, or help children in these homes.

In order for individuals to benefit fully from treatment or move toward recovery – basic needs must be met (food, shelter, safety).

The top counties for TANF recipients are Rolette, Benson, Sioux, and Cass. Three of these four counties have very limited access the behavioral health services.

The states that have implemented screening (based on suspicion) less than 1% of recipients have failed drug tests. For example, over 3 years, AZ screened 87,000 individuals with 1 positive test. Tennessee 65 positives of 39,121 (.001%). Even when screening occurs there are very few positives. Utah – 12 of 466 drug tested (97.5% NOT positive). Florida 108 of 4086 drug tested (97.4% NOT positive).

Will this stop drug use in the home or stop individuals/families from accessing services? (similar to the issue of pregnant women seeking prenatal care).

Pamela Sagness, Director
Behavioral Health Division
Department of Human Services

701.328.8824 | psagness@nd.gov
1237 West Divide Ave Suite 1C | Bismarck, ND 58501

65th Legislative Session
House Human Services Committee
January 23, 2017

AH. 5
HB 1308
1-23-17

Good afternoon Chairman Weisz and members of the Committee. My name is Trina Gress, I am Vice President of Community Options. Community Options is in opposition to HB 1308.

Community Options is a provider agency that contracts with various Divisions at the Department of Human Services (DHS), including Economic Assistance Division, which administers the Temporary Assistance to Needy Families (TANF). Community Options is an Employment Provider for the Job Opportunities and Basic Skills Program (JOBS) that all work eligible people must participate in when utilizing the TANF services. Currently, there are three providers for the JOBS program, North Dakota Job Services in Fargo, Turtle Mountain Employment and Training in Rolette and Community Options throughout the rest of the state. I am here to share with you the steps the Employment Providers take to ensure people who are using drugs and alcohol are held accountable.

After a client goes to the local county social service office, the Eligibility Work refers all work eligible clients to an Employment Provider. Within the first 7 days an intake and assessment in which the client and family is assessed and barriers are identified. A plan is written that addresses each barrier (including drug and alcohol use). Recommended treatment is written in the plan and participation in treatment is required. If the client does not follow the plan, they are sanctioned from the program and do not receive TANF funds. TANF clients are not allowed to "live on the system."

In most cases, the client finds a job and the local employer does the drug test. If the client does not pass the drug test then the written plan would be modified to include treatment supports. Once again if the client does not follow the plan, they are sanctioned.

As an Employment Provider, when we see a child living in an environment with drugs, the Employment Specialist is required to complete a State Form Number 960 to report child abuse and neglect. Then the Child and Family Services will address the safety of the child.

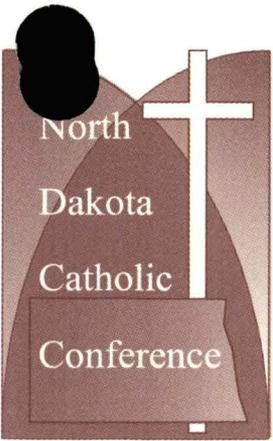
Community Options staff also assists client in completing the LIHEAP applications. Since the amendments were introduced I would like to share with you the data related to that population in the event this bill would pass. In the month of Dec 2016, Community Options assisted 12 people age 60+, 9 people with disabilities, and 16 families with children under age of 18.

In conclusion, Community Options opposes SB 1308. Thank you for your time, are there any questions?

Sincerely Submitted,

Trina Gress

Att. 6
HB 1308
1-23-17



Representing the Diocese of Fargo and the Diocese of Bismarck

Christopher T. Dodson
Executive Director and
General Counsel

To: House Human Services Committee
From: Christopher T. Dodson, Executive Director
Subject: Senate Bill 2279 — Drug Testing for TANF Recipients
Date: January 23, 2017

A fundamental criterion for our state's welfare policy should be protecting human life and human dignity in the spirit of charity. Senate Bill 2279 fails that test.

Testing positive for drug use does not equate with drug addiction. At best, it only proves that an illicit drug was used. The purpose of the Temporary Assistance for Needy Families Program (TANF), however, is to help families in poverty, not to punish drug users. Deterring illicit drug use is the proper purview of criminal law.

Substance abuse is a medical problem. Therefore, it is incumbent upon us to ask whether there exist peer-reviewed studies demonstrating that denial of economic assistance leads to addiction recovery. Without that evidence, this bill, though well-meaning, becomes a misguided experiment that puts kids at risk.

The temptation to judge worthiness for assistance is understandable. It may be part of our *fallen* human nature. St. John Chrysostom addressed this very question back in the fourth century in what became the standard response to the issue in Christian teaching. He said:

"The poor man has one plea, his want and his standing in need: do not require anything else from him; but even if he is the most wicked of all men and is at a loss for his necessary sustenance, let us free him from hunger." "Need alone is the poor man's worthiness . . ."

Asking why a person is poor has its value, but not for the purpose of determining whether the person deserves help. The person deserves help because he or she needs help. Discovering why a person is poor helps us address the problems that might have contributed to the person's plight. The information, though, should not be used to determine worthiness or to deny or delay filling the person's need. Otherwise, we transform our social assistance programs to a cold, paternalistic, and demeaning system.

We urge a **Do Not Pass** recommendation on Senate Bill 2279.

**Testimony
House Bill 1308 Department of Human Services
House Human Services Committee
Representative Weisz, Chairman
January 23, 2017**

Chairman Weisz, members of the House Human Services Committee, I am Carol Cartledge, Director of the Economic Assistance Division, for the Department of Human Services (Department). I am here today to provide information on Temporary Assistance for Needy Families (TANF).

TANF provides cash assistance to eligible low-income families that include a child, deprived of support of a parent, who is living with a parent or a caretaker relative. The average monthly caseload was 1,145 and the average month benefit was \$274 per month according to the Quarterly Budget Insight for July 2015 through September 2016. Adult members in receipt of TANF must comply with TANF requirements by participating in the Job Opportunity and Basic Skills (JOBS) program.

TANF program has a five year limit for receiving benefits. The five year limit applies if the adult member is in receipt of a TANF benefit for themselves. A disqualification removes the adult's benefits; the benefit is for the children only and does not count towards the five year limit.

Through the JOBS program, the adult member is assessed for barriers to employment, and an employment plan is developed that provides a work plan for the individual to achieve self-sufficiency. If a plan includes a requirement to receive treatment, such as substance use treatment, and the individual does not follow-through with the recommended treatment, the individual is sanctioned. A sanction means the TANF benefit is reduced to the

amount needed for the child or children only, and if the individual does not resolve the issue within a month, the entire case is closed.

Information received through the JOBS program, provided that less than one percent of adult members identified a substance use disorder either through the initial or ongoing assessment and case management. According to The Center for Law and Social Policy (CLASP) article dated October 2016, in states that have implemented these policies, few applicants have been identified as likely users, and even fewer have tested positive – in many cases, less than one percent of applicants. This compares to our findings of less than one percent.

Impact

TANF is administered locally through a county social service office. Each county social service office would be required to administer the provisions outlined in the bill.

This bill would require county social service agencies to refer the individual to a local facility for a drug test. To assure appropriate chain of custody, the county would need to receive the drug test results directly from the clinic or lab. There are federal and state safeguarding rules that require the results to be received and maintained in a secure area and which define who may receive the results and who may have access to the results. The counties would need to retain the actual drug test results as the results become a requirement of eligibility and are subject to review during routine program audits.

In addition, the bill states a minor parent who is an applicant for benefits who does not live with a parent may be subject to a drug test. Minor parents may not have the authority to give consent to obtain the results of

the drug test without parental consent and the county may not be able to receive the results to determine eligibility for TANF.

Additionally, confidentiality requirements for drug and alcohol treatment records are governed by 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records, so allowance would have to be made within the program to ensure that any records relating to an applicant's participation in a treatment program are afforded the confidentiality required under 42 CFR Part 2. This would need to include a process for the county to obtain a release of information to receive treatment records and to redisclose them to the Department and to the Office of Administrative Hearings if necessary.

The bill states the applicant is responsible for expense of treatment. A majority of TANF applicants also apply for and are eligible for Medicaid. A Medicaid beneficiary may not be charged for Medicaid covered services rendered by providers enrolled with Medicaid.

This concludes my testimony and I would be happy to answer any questions.

Att. 1
HB 1308
2/6/17

Testimony: HB 1308

Rep. Daniel Johnston (District 24)

We live in a time when people are concerned about how their tax dollars are spent, and rightly so. Many states are feeling the financial pinch right now, including North Dakota. This environment forms the genesis for this legislation to incorporate substance testing for welfare recipients.

When Temporary Assistance for Needy Families was enacted in 1996, federal law made it clear that states could test applicants and sanction those that failed a drug test. Michigan started the process of drug testing welfare applicants in 1999, but the law was suspended by the courts. The courts ruled that it was unconstitutional to test all applicants without reasonable suspicion, per the 4th Amendment. So in developing this bill I had to look at states that had successfully instituted a program of drug testing that survived court scrutiny.

I understand why taxpayers are concerned that their hard earned tax dollars could be going into the hands of somebody who is using drugs, and very likely, not on the best path toward stability and productivity for themselves and their loved ones.

This bill is a tool for encouraging people to get help for their addiction. I do not view it as an attempt to deny benefits. Quite the opposite, I realize that many of the situations where drug use is prevalent, and where TANF benefits are sought, involve innocent children. That's why I included a stipulation in this bill that a designated payee be appointed in the event of children being involved, which is highly likely. No matter the outcome of the drug test and regardless of whether or not the applicant chooses to get help for their addiction, the children involved will receive the benefits.

Now, I'd like to answer a few common questions associated with this bill:

Is there a lack of inpatient rehab facilities in North Dakota?

To quote a local physician practicing back home in District 24: "The lack of inpatient facilities does not justify continued support and enabling of addiction - outpatient help is available". I agree, as outpatient addiction counseling is available in most communities.

How effective will the program be?

It is true that the majority of people applying for TANF benefits will not test positive for drug use and an even greater number will not be tested at all if this bill becomes law. This bill merely gives the social service entities the tools they need to ensure benefits are appropriately dispersed through a designated payee and the authority to refer applicants who test positive to a treatment program. This is designed to make our communities safer, the use of our tax dollars more responsible, and to help children that are surrounded by dangerous drugs.

Is the program cost effective?

Concerning the cost effectiveness of the program, we can use comparative analysis with similar

laws in other states. As of Feb. 2016, Tennessee has had 65 people test positive for drug use. An additional 116 people refused to participate in an initial drug screening questionnaire, automatically disqualifying them for benefits. The cost to administer the drug test was \$23,592. Given the average yearly cost of benefits in TN (\$1,980), the 116 that refused to proceed with the drug screening process saved the state an estimated \$230,000 dollars. In late 2015, North Carolina began drug testing welfare recipients and they reported that 24% of the first batch of applicants tested positive for drug use. 89 applicants were given the drug test, 21 of them tested positive. An additional 70 applicants who were told to take the test never showed up for their appointment and consequently never received benefits. I believe the cost to administer drug test can be done for significantly less in North Dakota than other states. I talked with City County Health and I was told that drug test can be administered at around eight dollars apiece. I do not foresee significant cost with the drug screening process.

For reference, the following questions below are the same three added to Tennessee's application process, which are used to establish reasonable suspicion.

Possible Questions to Establish Reasonable Suspicion:

1. In the past three months have you used any of the following drugs?
2. In the past three months have you lost or been denied a job due to use of any of the following drugs?
3. In the past three months have you had any scheduled court appearances due to use or possession of any of the following drugs?
 - Marijuana (cannabis, pot, weed, etc.)
 - Cocaine (coke, blow, crack, rock, etc.)
 - Methamphetamine/amphetamine type stimulants (speed, meth, ecstasy, X, ice, etc.)
 - Opioids (heroin, morphine, methadone, opium, buprenorphine, codeine, etc.)

HB 1308
#1
3/13
Pg.1

Testimony: HB 1308

Rep. Daniel Johnston

District 24

When Temporary Assistance for Needy Families was enacted back in 1996, federal century code made it clear that states could test applicants and also sanction those that fail a drug test. During my research, I found that Michigan started the process of drug testing welfare applicants in 1999, but the law was suspended by the courts. The courts ruled that it was unconstitutional to test all applicants without reasonable suspicion. So, in developing this bill I had to look at states that had successfully instituted a program of drug testing that survived court scrutiny.

We live in a time when people are concerned about how their tax dollars are spent, and rightly so. Many states are feeling the financial pinch right now including ND; therefore, I understand why the tax payer is concerned that the public treasure could be going into the hands of somebody who is using drugs.

Really, I look at this bill as a tool for encouraging people to get help for their addiction. I do not view it as an attempt to deny benefits.

Is there a lack of inpatient rehab facilities in North Dakota?

I discussed this bill with my local city county health and they did not seem concerned with the intent of bill though, they did question the availability of addiction services. To quote a local physician practicing in district 24, "the lack of inpatient facilities does not justify continued support and enabling of addiction - outpatient help is available". I agree, outpatient addiction counseling is available in most communities.

How effective will the program be?

It is true that the majority of people applying for TANF benefits will not test positive for drug use and an even greater number will not be tested at all if this bill becomes law. This bill merely gives the social service entities (jobs opportunity) the tools they need to ensure benefits are appropriately dispersed and to refer the employment plan applicant to an appropriate treatment provider.

Is the program cost effective?

Concerning the potential cost effectiveness of this bill, the verdict is still out based on information I've gathered from other states. As of Feb. 2016, Tennessee has had 65 people test positive for drug use, and an additional 116 people refused to participate in an initial drug screening questioner, automatically disqualifying them for benefits. The cost to administer the drug test was \$23,592. Given the average yearly cost of benefits in TN (\$1,980), the 116 that refused to proceed with the drug screening process saved the state an estimated \$230,000 dollars. In late 2015, North Carolina began drug testing welfare recipients and they reported that 24% of the first batch of applicants tested positive for drug use. 89 applicants were given the drug test

1308
#1
3/13
Pg. 2

with 21 of them testing positive. An additional 70 applicants who were told to take the test never showed up for their appointment and consequently never got benefits.

At the end of FY 2015, North Dakota served 1,239 TANF applicants with a fiscal impact of approximately \$343,354. I believe the cost to administer drug test can be done for significantly less in North Dakota than other states. I talked with City County Health and I was told that drug test can be administered at around eight dollars apiece. So, I don't see a significant cost with the drug screening process. Something to consider is that not all TANF applicants will be enrolled in the Job Opportunities and Basic Skills (JOBS) Program.

Possible Questions to Establish Reasonable Suspicion

1. In the past three months have you used any of the following drugs?
2. In the past three months have you lost or been denied a job due to use of any of the following drugs?
3. In the past three months have you had any scheduled court appearances due to use or possession of any of the following drugs?
 - Marijuana (cannabis, pot, weed, etc.)
 - Cocaine (coke, blow, crack, rock, etc.)
 - Methamphetamine/amphetamine type stimulants (speed, meth, ecstasy, X, ice, etc.)
 - Opioids (heroin, morphine, methadone, opium, buprenorphine, codeine, etc.)

The questions above are the same three added to Tennessee's application process which are used to establish reasonable suspicion.

The Temporary Assistance for Needy Families (TANF) program is intended to move low-income families from public assistance to self-sufficiency by providing cash assistance along with work readiness, training and job placement services.

The Job Opportunities and Basic Skills (JOBS) Program is a companion program that focuses on work-readiness, training and job placement services. The department contracts with Job Service North Dakota to provide these services to JOBS participants.

HB 1308
#2
3/13

Testimony
House Bill 1308, Department of Human Services
Senate Human Services Committee
Senator Lee, Chairman
March 13, 2017

Chairman Lee, members of the Senate Human Services Committee, I am Carol Cartledge, Director of the Economic Assistance Division, for the Department of Human Services (Department). I am here today to provide information on Temporary Assistance for Needy Families (TANF).

TANF adults receiving a TANF benefit are referred to Job Opportunity and Basic Skills (JOBS) to meet with an employment contractor. The employment contractor assesses individuals for barriers to employment and determines the appropriate work activity for the individual. The assessment includes a variety of questions about general health, behavioral health, education, domestic violence, and lack of transportation, child care or housing. The outcome of the assessment is used to develop an individualized employment plan. Individuals are assessed at the initial meeting and at least every four months thereafter.

In addition, TANF participants have ongoing contact with the employment contractor, this may include home visits. If the employment contractor identifies any area of concern, the employment plan may be updated to include a requirement to resolve the issue.

If the individual does not follow-through with the employment plan, they are disqualified. A disqualification means the TANF benefit is reduced to the amount for children only, and if the individual does not resolve the outstanding issue within a month, the entire case is closed.

1308
#2
3/3

Department data on TANF for July 2015 – December 2016:

- Average monthly number cases - 1,148
- Average monthly benefit - \$275
- Average monthly number of individuals participating JOBS - 792

This concludes my testimony and I would be happy to answer any questions.

HB 1308
#3
3/13
pg.1

F. Substance Abuse

F1. Alcohol and Drugs

Discuss the role that alcohol and drugs play in the participant’s life.

F1 Alcohol and Drugs / **F2 Household Drugs** Notes

Alcohol and drugs play a part in some people’s lives. The next questions are about the role they may have played in your life in the past year.

Participant does not want to answer questions regarding substance abuse.

1. How often do you have a drink containing alcohol? Two to four times per month

2. How many drinks containing alcohol do you have on a typical day when you are drinking? 3-4

3. How often do you have six or more drinks on one occasion? Monthly

	Has this ever been a problem?		Is this an issue now?	
	Yes	No	Yes	No
4. Have you ever tried to cut down or quit drinking or using drugs?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Have you ever had a problem stopping drinking or using drugs?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Did you ever have more to drink or use more drugs than you intended to, or did you drink or use longer than you intended to?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
7. Was there ever a time you had to drink or use drugs much more than you used to in order to get the same effect you wanted?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
8. Has any relative, close friend, or partner ever worried or complained about your drinking or drug use?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

F1 Alcohol and Drugs / **F2 Household Drugs** Notes

9. Have you ever felt bad or guilty about your drinking or drug use?

10. Have you ever spent a lot of time thinking about or trying to get alcohol or other drugs?

11. Was there ever a time that your drinking or drug use interfered with your work at a job, school, or at home?

12. Have you ever participated in high risk activities or been injured while under the influence of alcohol or other substances?

13. Did you ever have any emotional or psychological problems from drinking or using drugs?

14. Have you ever gone to anyone for help because of your drinking or drug use?

15. Have you ever been hospitalized because of drinking or drug use?

16. Have you ever experienced any of the following related to any drinking or drug use?

	Has this ever been a problem?		Is this an issue now?	
	Yes	No	Yes	No
a. Blackouts or other periods of memory loss?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Injury to your head?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. Convulsions or delirium tremens(DTs)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

1308
#3
3/3
Pg. 2

/ F1 Alcohol and Drugs		/ F2 Household Drugs		Notes	
16. Have you ever experienced any of the following related to any drinking or drug use?					
	Has this ever been a problem?		Is this an issue now?		
	Yes	No	Yes	No	
a. Blackouts or other periods of memory loss?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
b. Injury to your head?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
c. Convulsions or delirium tremens(DTs)?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
d. Hepatitis or other liver problems?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
e. Feeling sick, shaky, or depressed?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
f. Feeling "coke bugs" or a crawling feeling under the skin?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
g. Injury to yourself or others?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
h. Using needles to shoot drugs?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
17. Have you ever been diagnosed for:					
	Has this ever been a problem?		Is this an issue now?		
	Yes	No	Yes	No	

h. Using needles to shoot drugs?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
17. Have you ever been diagnosed for:					
	Has this ever been a problem?		Is this an issue now?		
	Yes	No	Yes	No	
a. Alcohol dependency?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
b. Drug dependency?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	
<i>The following question is to learn about the customer's substance abuse in the past thirty (30) days.</i>					
	Has this ever been a problem?		Is this an issue now?		
	Yes	No	Yes	No	
In the past month, have you ever abused prescription or non-prescription drugs or any other substance?					
	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	

The participant’s responses can help determine if further alcohol and drug evaluation is needed before the participant is placed in work activities.

If the participant does not want to answer the substance abuse questions, check the ‘Participant does not want to answer the questions regarding substance abuse’ box at the top of the section.

HB 1308
4
3/13

NDLA, S HMS - Johnson, Marne

From: Lee, Judy E.
Sent: Monday, March 13, 2017 1:00 PM
To: NDLA, S HMS - Johnson, Marne
Subject: FW: HB 1308

Here is the information from one of this morning's speakers.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
e-mail: jlee@nd.gov

From:)
Sent: Monday, March 13, 2017 11:10 AM
To: Lee, Judy E. <jlee@nd.gov>
Subject: HB 1308

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Madam Chair and Committee Members,

I am Gretchen Deeg of Bismarck, ND. The Tennessee Drug Testing Program named by Representative Johnston as a model for HB 1308 was deemed a failed program. Here are the stats for that program.

- Just 65 of 39,121 people applying for Families First in Tennessee tested positive.
- The total cost of drug testing as of Feb. 2016: \$23,592.

I am hopeful that this committee will not recommend a bill similar to TN's failed program.

Thank you for your time.

Gretchen Deeg
Bismarck, ND

HB 1308
#5
3/13

HB 1308
March 13, 2017
Testimony – Hillary Starke Constituent District 38

I believe HB 1308 should not be adopted by the Senate. The reasons I gave on Monday, March 13, 2017 were in regard to unnecessary addiction screening for TANF recipients as these procedures should not be a requirement to receive financial assistance in homes where children are present.

I understand how this bill may seem like it is trying to protect families and children with drug addiction problems, and it does make an effort or address addiction in a humanistic manner. The reason I am against this bill is because it does not address the larger issue, which is drug addiction at across the state. By targeting those who have children and are in search of employment, this bill will only force those who do have addictions to opt out of applying to the state for assistance, leaving their homes and children without essential income to survive. Addictions are a complicated health problem, and referral to a treatment program will not prevent drug abuse until the program is completed. The bill does not address how to handle situations where a TANF recipient may be found to have an addiction but refuses to get treatment. It also sends the message that we, as a state, believe that those who need help are instantly under suspicion of drug abuse. It also makes a statement about whose addictions we believe are most important, offering no treatment services to those who do not have children, or have been separated from their own children.

Reform for the treatment of drug addiction is absolutely necessary, but that reform needs to begin with how we treat this health problem within our criminal justice system, the types of treatments available, and for families, provisions for childcare while an individual receives proper treatment. How we treat addictions cannot be solved by only targeting those of a certain socioeconomic status, since addiction is not confined to those who have less than most. To believe that circumstances which lead to poverty are caused by drugs cannot be the standard by which we judge our families in need. As poverty does not translate to laziness, it does not mean drug addicted either.

This bill will be effective as a scare tactic to keep those who need addiction treatment the most from being willing to ask for assistance, financial or otherwise. Tying financial assistance to addiction screening will only keep money out of the hands who need it. Those people are our children. TANF and JOBS are programs which advocate for families and children by helping parents find work and look to brighter futures, so why would we want to deter people from asking for help? Is it not the goal of TANF to create productive families in our communities? This bill is not the starting point for making help available. This bill only marginalizes and humiliates those who are in need and prevents those who are battling an addiction from asking for help.

NDLA, S HMS - Johnson, Marne

HB1308
#6
3/13
Pg.1



To:
Subject:

Lee, Judy E.
Tuesday, March 14, 2017 6:00 AM
NDLA, S HMS - Johnson, Marne
Fwd: HB 1308 testimony

Copies, please

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Phone: 701-282-6512
e-mail: jlee@nd.gov

Begin forwarded message:

From: Ellie Shockley
Date: March 13, 2017 at 5:54:50 PM CDT
To: "Anderson, Jr., Howard C." <hcanderson@nd.gov>
Cc: "Lee, Judy E." <jlee@nd.gov>, "Larsen, Oley L." <olarsen@nd.gov>, "Clemens, David" <dclemens@nd.gov>, "Heckaman, Joan M." <jheckaman@nd.gov>, "Kreun, Curt E." <ckreun@nd.gov>, "Piepkorn, Merrill" <mpiepkorn@nd.gov>
Subject: Re: HB 1308 testimony

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Hello again. I wish I had a better suggestion. My understanding is that the science isn't quite where we need it to be, but there are folks working on this issue. For example, <http://www.washingtontimes.com/news/2015/dec/2/new-breath-test-device-to-detect-levels-of-thc/>

I will say that sometimes there are laws that are not good laws. It is my opinion that the illegality of marijuana is not a good law. There are many reasons that I feel this way and all of those reasons are fairly common. There is nothing particularly unusual about my beliefs. I am hardly alone in thinking that marijuana prohibition, like alcohol prohibition, is foolish as a policy position. To be against prohibition, and to believe that private citizens (such as laborers) should be allowed to a degree of privacy in their personal existence, are not actually very radical beliefs. This is 2017. The illegality of marijuana and the legality of alcohol is a rather strange and arbitrary legal framework. Further, the "is-ought" problem is a well-known logical fallacy and is one that I like to avoid: https://en.wikipedia.org/wiki/Is%E2%80%93ought_problem

I do not promote the usage of marijuana any more than I promote the usage of alcohol. But I do promote the idea that employees of companies are entitled to a private existence when off the clock, and that unnecessarily severe and invasive laws should be changed. I also promote the idea that we can't justify stereotyping TANF recipients as drug users and then attempt to justify this by saying, "Well we oppress laborers in this way, so it's fair game."

1308
#6
3/13
PS-2

Ellie Shockley, Ph.D.
Research Analyst
Bismarck-Mandan, North Dakota

On Mon, Mar 13, 2017 at 5:37 PM, Anderson, Jr., Howard C. <hcanderson@nd.gov> wrote:

Dear Dr. Shockley:

You seem to be promoting illegal activity, such as consuming marijuana, rather than encouraging drivers to obey the law. Smoking marijuana is illegal as is drinking and driving. Dangerous also and more so when you are behind the wheel of a large truck.

If we had a good way of keeping impaired drivers off the road, we would be all in favor of the method. Let us know when you have a better idea.

The test are only considered intrusive by those who think they might get caught in an illegal situation. The rest could care less.

Sincerely,

Howard

Howard C. Anderson Jr., R.Ph.

District 8 Senator

2701 7th St NW

Turtle Lake ND 58575-9667

Home 701-448-2235

Cell 701-861-9749

Senate 701-328-3373

E mail hcanderson@nd.gov

Committees: Human Services and Political Subdivisions

Real Work e mail:

From: Ellie Shockley [mailto:_____]

Sent: Monday, March 13, 2017 5:15 PM

To: Lee, Judy E. <jlee@nd.gov>; Larsen, Oley L. <olarsen@nd.gov>; Anderson, Jr., Howard C. <hcanderson@nd.gov>; Clemens, David <dclemens@nd.gov>; Heckaman, Joan M. <jheckaman@nd.gov>; Kreun, Curt E. <ckreun@nd.gov>; Piepkorn, Merrill <mpiepkorn@nd.gov>

Subject: HB 1308 testimony

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Good afternoon committee members,

Thank you for listening to my impromptu testimony today. I hadn't necessarily planned to speak, but I just felt that I had to respond to the arguments I heard being presented in favor of this bill.

Here is what I basically said:

My dad used to drive truck and that I have a Ph.D. in psychology, so I am viewing this issue from these two main angles. I made two main points. First, I agree with the testimony of all the women who were against this bill and want to amplify and endorse what they have said.

Second, I take issue with the argument that since it is common for truck drivers and heavy equipment to undergo drug testing, then it should be no big deal to test TANF recipients. I do not find this to be a logical argument. The drug testing of truck drivers and equipment operators *as it is currently implemented* is in fact much more of an invasion of privacy than it is a way to prevent intoxicated driving/operating. The tests used are much better at establishing that someone consumed, say, marijuana weeks ago than it is as detecting or preventing intoxicated vehicle operation. And while some of the committee members seemed to be under the impression that laborers subjected to this testing have no problem with it, I beg to digger with that impression. In fact, plenty of them do feel that it is an invasion of their privacy. Quite frankly, in my opinion it is no employer's business if some driver or operator consumed marijuana recreationally and in moderation off-the-clock -- just as it is no employer's business if

1308
#6
3/13
pg.3

1308
#6
3/13
Pg. 4

some driver or operator has, say, 2-3 beers when off-the-clock. (And, it is worth noting that alcohol is considerably more addictive and societally problematic than marijuana!)

I reject the notion that because we subject drivers and equipment operators to testing that *does not even solve the problem of being intoxicated on the clock but rather is just an invasion of privacy*, that we then have justification for testing TANF recipients. And this argument sounds to me like an attempt to generate resentment among working class laborers against poor people who need assistance. I don't think we need to be in the business of "oppression olympics." I am of the opinion that truck drivers and equipment operators should NOT be tested in the way that they are, and that a more appropriate solution to intoxicated driving/operating should be developed. For this reason, I think that the idea that what drivers/operators are subjected to somehow justifies testing TANF recipients is a very misguided idea.

Best,

Ellie Shockley, Ph.D.
Research Analyst
Bismarck-Mandan, North Dakota

Mandan, ND 58554

Testimony Against HB 1308
Catherine Bohner, Constituent in District 35
March 13, 2017

1308
#6
3/13
Pg. 5

Before submitting my prepared testimony, I answered the question how many people would be included in the JOBS program. I testified 347 cases. Additional information is below:

- The JOBS participation report from November 2016 shows that there were 1,139 TANF cases. 792 were excluded from the JOBS program. Based on the numbers from November 2016, a total of 347 cases would be potentially screening-eligible because they were subject to the JOBS individual employment plan.

Chairwoman Lee and members of the human services committee, thank you for this opportunity to testify against house bill 1308. My name is Catherine Bohner. I am an anthropologist, working here as an archaeologist. Before moving to Bismarck three years ago, I volunteered as a mentor and worked as an AmeriCorps member in youth services. I have seen TANF benefit many families, especially single parents who find it particularly difficult to break the cycle of poverty. While the amended bill is considerably less odious than the original, I still take issue with the premise.

There are already tools in place for caseworkers to refer people to addiction services. This bill requires mandatory screenings based on no concrete evidence of widespread substance abuse amongst recipients. Instead, it perpetuates the noxious stereotype that TANF recipients are drug addicts gaming the system. This idea not only contributes to the stigma around poverty, but also to the stigma around addiction. Addiction is a very real and serious problem that doesn't care what a person's socioeconomic status is. This bill, however, takes no concrete steps to combat addiction, and I see serious negative implications in the message it sends to our most vulnerable citizens. The bill singles out poor families and sends the message that they do not deserve our help.

After my testimony, Senator asked me about drug tests for CDL drivers, and also asked why I felt the bill targets the poor when many people take drug tests for employment.

I tried to explain that I saw no problem with drug tests implemented by private companies. I take a drug test for my employment. However, this bill was not intended to legislate private companies or employers. The bill discusses TANF recipients, singling out poor families and requiring a mandatory drug screening. Mandatory is the word with which I took issue. The current law allows service providers to refer applicants if they see warning signs of substance abuse. Working in human services and at my current position, I have received trainings on how to recognize substance abuse and intoxication. With such trainings and laws already in place, I do not see the benefit of the proposed bill. I see it as a punitive measure, and as a means of sending the message that we suspect all poor of being addicts, perpetuating harmful and counterproductive stereotypes.

1
HB 1308
3/14

65th Legislative Session
Senate Human Services Committee
March 13, 2017

Good afternoon Chairwoman Lee and members of the Committee. My name is Trina Gress, I am Vice President of Community Options. Community Options is in opposition to HB 1308.

Community Options is a provider agency that contracts with various Divisions at the Department of Human Services (DHS), including Economic Assistance Division, which administers the Temporary Assistance to Needy Families (TANF). Community Options is a contractor for the Job Opportunities and Basic Skills Program (JOBS) in which all work eligible people must participate in when utilizing the TANF services. Currently, there are three providers for the JOBS program, North Dakota Job Services in Fargo, Turtle Mountain Employment and Training in Rolette and Community Options throughout the rest of the state. I am here to share with you the steps the Employment Contractors take to ensure people who are using drugs and alcohol are held accountable.

After a client goes to the local county social service office, the Eligibility Worker refers all work eligible clients to an Employment Contractor to participate in the Job Opportunities and Basic Skills (JOBS) program. Each Employment Contractor must adhere to the JOBS Employment Contractor Handbook as developed and defined by Department of Human Services. It is the Employment Contractors responsibility to complete a comprehensive assessment within 7 calendar days of the first contact. The assessment is based on client's work skills, client's work experience, mental/physical limitations affecting employability, and other factors that may affect the client's potential for employment. Potential employment barriers may include alcohol and other drug problems, mental health problems, physical disabilities, learning disabilities, and the physical, emotional or psychological effects of domestic violence. Upon completion of the assessment a plan is written that addresses each barrier (including drug and alcohol use). Recommended treatment is written in the plan and participation in treatment is required. If the client does not follow the plan, they are sanctioned from the program and do not receive TANF funds. TANF clients are not allowed to "live on the system."

Community Options is opposed to HB 1308 because adding language in Section X is just duplicating language that already exists in the Employment Contractor Handbook developed by Department of Human Services in which all three current contractors must adhere.

In conclusion, Community Options opposes HB 1308. Thank you for your time, are there any questions?

Sincerely Submitted,

Trina Gress

2
HB 1308
3/14

Job Opportunity and Basic Skills (JOBS)

Employment

Contractor

Handbook

Revised 01/21/2011

1308
#2
3/14

TABLE OF CONTENTS

OVERVIEW.....	1
GENERAL INFORMATION.....	2
JOB OPPORTUNITIES AND BASIC SKILLS (JOBS) PROGRAM.....	2
DISCRIMINATORY PRACTICES PROHIBITED.....	2
JOBS PARTICIPANTS GRIEVANCE RESOLUTION PROCESS.....	3
RISK OF HARM AND ALERTING JOBS OF POTENTIAL CONCERN.....	4
WORKFORCE SAFETY AND INSURANCE (WSI).....	5
PARTICIPATION IN DUAL PROGRAMS (JOBS AND PRIDE PROGRAMS).....	6
JOBS EMPLOYMENT CONTRACTOR - RESPONSIBILITIES.....	6
JOBS PARTICIPANTS - RESPONSIBILITIES.....	7
INDIVIDUALS EXEMPT FROM PARTICIPATION IN JOBS.....	8
EXEMPT INDIVIDUALS WHO CHOOSE TO VOLUNTEER.....	8
INDIVIDUALS EXCLUDED FROM PARTICIPATION.....	8
<i>Verified Provider of Care to a Disabled Family Member</i>	8
WORK PARTICIPATION REQUIREMENTS AND WORK ACTIVITIES.....	9
WORK PARTICIPATION RATE REQUIREMENTS.....	9
DETERMINING IF A PARTICIPANT MEETS THE WORK PARTICIPATION RATE REQUIREMENTS.....	10
<i>TANF Up-front Eligibility Requirements</i>	11
<i>Pay After Performance</i>	11
<i>Dependent Children age 16 and older</i>	14
APPOINTMENTS/RESCHEDULING.....	15
WORK ACTIVITIES.....	16
<i>Core Work Activities</i>	16
1. Unsubsidized Employment - Including Self-Employment.....	16
2. Subsidized Employment - Public or Private.....	17
3. Work Experience.....	18
Substance Abuse Treatment, Mental Health Treatment or Rehabilitation Activities.....	19
Soft Skills Training.....	19
4. On-The-Job Training.....	20
5. Job Search and Job Readiness.....	21
6. Community Service.....	21
Number of Deemed Core Hours (Applies to Community Service only.).....	21
7. Vocational Education Training.....	22
8. Providing Child Care Services to a Participant Involved in a Community Service Program.....	23
<i>Non-Core Work Activities</i>	23
1. Job Skills Training Directly Related to Employment.....	23
2. Education Directly Related to Employment.....	23
3. Satisfactory Attendance in Secondary School or a Course of Study Leading to a GED.....	23
<i>Other Activities</i>	24
'Unpaid' Child Care as a Countable Work Activity.....	24
Home Schooling/Education.....	24
Non-Traditional Activities.....	25
OBTAINING HISTORY OF JSA/JRA AND VOCATIONAL EDUCATION HOURS OF PARTICIPATION	27

1308
#2
3/14

VOCATIONAL REHABILITATION 28

 SUPPORTIVE SERVICES 28

 RELEASE OF INFORMATION REQUIREMENTS 28

ORIENTATION AND WORK ASSESSMENT 29

 ORIENTATION PROCESS 29

 WORK ASSESSMENT 29

EMPLOYABILITY PLANS 32

 MODIFIED EMPLOYABILITY PLAN 33

TANF/JOBS SUPPORTIVE SERVICES 35

 NON-ALLOWABLE SUPPORTIVE SERVICES 35

 ALLOWABLE SUPPORTIVE SERVICES 35

 INTERPRETER SERVICES 38

VENDOR PAYMENT PROCESS 39

GOOD CAUSE DETERMINATION AND SANCTIONS - RESPONSIBILITY OF JOBS EMPLOYMENT CONTRACTOR 40

 GOOD CAUSE FOR NON-PARTICIPATION 40

Good Cause due to Medical Reasons 42

Good Cause due to Domestic Violence 43

JOBS SANCTION - NON-COMPLIANCE 45

Curing JOBS Sanctions 48

Proof of Performance (POP) 48

VERIFYING, REPORTING AND PROJECTING HOURS OF PARTICIPATION 51

 VERIFICATION OF WORK ACTIVITIES ACTUAL HOURS OF PARTICIPATION 51

Core Work Activities 51

 1. Unsubsidized Employment - Including Self-Employment 51

 2. Subsidized Employment - Public or Private 52

 3. Work Experience 52

 4. On-The-Job Training 52

 5. Job Search and Job Readiness 53

 6. Community Service 56

 7. Vocational Education Training 56

 a. Classes that are based on credit hours: 56

 b. Classes that are not based on credit hours 57

 c. Distance learning/on-line classes 57

 d. Supervised/Unsupervised study time 57

 8. Providing Child Care Services to a Participant Involved in a Community Service Program 58

Non-Core Work Activities 58

 1. Job Skills Training Directly Related to Employment 58

 2. Education Directly Related to Employment 59

 3. Satisfactory Attendance in Secondary School or a Course of Study Leading to a GED 59

Other Work Activities 60

 UNSUPERVISED HOMEWORK HOURS 61

Allowable Unsupervised Homework Hours 61
Verification of Unsupervised Homework Hours 61

REPORTING OF HOURS OF PARTICIPATION..... 61

Counting Actual Hours of Participation for Employment..... 61
Excused Absence and Holiday Hours 62
Counting Hours for Individuals in Receipt of Workforce Safety and Insurance (WSI) Payments 66
Reporting of Hours for month of TANF Application 66
 How to Report Hours for the Month of Application 67
Reporting of Hours for Ongoing Cases..... 69
Reporting Hours for Exempt Volunteers 70

PROJECTING OF HOURS FOR FEDERAL REPORTING..... 71

Unsubsidized Employment (excluding Self-Employment) Subsidized Private and Public Employment, and On-the-Job Training 71
 Determining the Number of Hours to Project: 71
 Decrease in Hours from the Projected Hours of Participation: 71
 Increase in Hours from Projected Hours of Participation: 71
 Re-projecting Hours: 72
 Self-Employment 72

POST-TANF SUPPORTIVE SERVICES..... 74

TRIBAL NEW PARTICIPANTS TRANSPORTATION ASSISTANCE 75

CASE TRANSFERS 76

AUDIT/SAMPLING OF CASES 77

RECORD RETENTION..... 78

 LENGTH OF RETENTION PERIOD 78
 STARTING DATE OF RETENTION PERIOD 78

GOVERNMENT OR TRIBAL OFFICE CLOSURES 79

MISCELLANEOUS 80

ADDITIONAL INFORMATION..... 81

1308
#2
3/14

Overview

This handbook was developed by the Public Assistance Division of the North Dakota Department of Human Services, to assist JOBS Employment Contractors when implementing the provisions of the Job Opportunity and Basic Skills (JOBS) program. It includes supplemental information and clarifications to the TANF Policy Manual and TANF Work Verification Plan, and MUST be used in conjunction with these documents.

As you review and utilize this handbook, if you have any questions or comments, please direct them to the State TANF/JOBS Policy group mailbox at dhstanfjobs@nd.gov.

General Information

Job Opportunities and Basic Skills (JOBS) Program

The Personal Responsibility and Work Opportunity Act of 1996, Public Law 104-193, created a block grant that provides Temporary Assistance for Needy Families (TANF) benefits. Section 407 of The Act mandates work requirements for non-exempt individuals. Work requirements are further defined in the North Dakota Administrative Code chapter 75-02-01.2, Temporary Assistance for Needy Families (TANF) Program, and in TANF Manual Section 400-19-75-10-05, Exempt, Excluded and Non-Exempt Individuals.

TANF places a strong emphasis on work as a key to self-sufficiency. All non-exempt individuals of the TANF household will be referred to the Job Opportunities and Basic Skills (JOBS) Program.

The North Dakota Department of Human Services (DHS) is the administrative agency for the state's JOBS Program. DHS contracts to provide JOBS case management for referred TANF applicants/recipients. The JOBS Employment Contractor is charged with the placement, monitoring and reporting of JOBS participants in federally mandated work activities.

The JOBS program combines education, training, and employment components to enable participants to become self-sufficient, meaning having enough income to require closure of the household's TANF case.

Discriminatory Practices Prohibited

The North Dakota Department of Human Services, directly or through contractual or other arrangements, on the basis of race, color, religion, sex, national origin, age, or handicap, shall not:

1. Deny any individual aid, care, services, or other benefits provided under the TANF or JOBS program;
2. Provide any aid, care, services, or other benefits to an individual which is different or is provided in a different manner from that provided to others under the TANF or JOBS program;
3. Subject an individual to segregation or separate treatment in any manner related to receipt of any aid, care, services, or other benefits provided under the TANF or JOBS program;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, care, services, or other benefits provided under the TANF or JOBS program;
5. Treat an individual differently from others in determining whether the individual satisfies any eligibility or other requirement or condition which individuals must

1308
#2
3/14

meet in order to receive any aid, care, services, or other benefits provided under the TANF or JOBS program; or

6. Deny any individual an opportunity to participate in the TANF or JOBS program through the provision of services or afford the individual an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee where the primary objective of the federal financial assistance to the program is to provide employment, including a program under which the employment is provided to reduce unemployment).

JOBS Participants Grievance Resolution Process

The grievance resolution process is designed to allow a JOBS participant an opportunity to resolve complaints or grievances separate from the Fair Hearing process. Grievance resolution may involve, but is not limited to, participant disputes over work assignments, allegations of discrimination, or inappropriate treatment by program staff.

Procedure

1. A JOBS participant who is dissatisfied with the adequacy or appropriateness of services should first attempt to resolve her or his complaint or grievance by speaking with the JOBS Employment Contractor.
2. If a satisfactory solution is not reached, the JOBS participant may submit a written request, to the JOBS Employment Contractor, to meet with the Employment Contractor's supervisor to attempt to resolve the complaint or grievance.
3. If a JOBS participant requests a grievance resolution meeting, arrangements must be made to hold the meeting as soon as possible and at such a time and place that will allow the participant the opportunity to attend and present evidence of her or his complaint or grievance.

The JOBS participant must be provided a written notice of the date, time, and place of the grievance resolution meeting at least seven (7) calendar days in advance of the meeting.

4. Within ten (10) calendar days following the grievance resolution meeting, the JOBS participants must be provided a written decision regarding her or his complaint or grievance along with the objective reasons for the decision.

In keeping with the equal opportunity provisions of Title VI of the Civil Rights Act of 1964, if a JOBS participant's grievance, involving potential discrimination, cannot be resolved informally by the local JOBS Employment Contractor staff, the participant's case should be referred to the Department's State TANF Policy. State TANF Policy will review and make a decision as to whether a referral to the Civil Rights Officer is warranted.

1308
2
3/14

Risk of Harm and Alerting JOBS of Potential Concern

JOBS staff occasionally place JOBS participants in work sites where an individual may have unsupervised contact with children or vulnerable adults, such as schools, day-care centers or nursing homes, etc.

Ultimately, such worksites are responsible to conduct a criminal background check prior to allowing an individual to work with children or vulnerable adults.

In addition to the criminal background checks that are conducted by these worksites, there are some steps that JOBS Employment Contractors should take to help reduce the potential risk of harm to children or vulnerable adults.

Prior to placing a JOBS participants in a worksite where an individual could have unsupervised contact with children or vulnerable adults, the JOBS Employment Contractor shall review the Bureau of Criminal Investigation (BCI) List of Convicted Sex Offenders and Offenders against Children to make sure a participant's name does not appear on that list.

If a JOBS participant's name appears on the BCI List of Convicted Sex Offenders and Offenders Against Children, the JOBS Employment Contractor shall not place the individual in a worksite where that individual could have unsupervised contact with children or vulnerable adults.

To further reduce the risk of harm, the TANF Eligibility Worker must contact the appropriate JOBS Employment Contractor if she or he knows, or has reason to believe, an individual has a characteristic or background that would make the individual unsuitable for certain kinds of employment or creates a risk of harm to children or vulnerable adults.

To "know or have reason to believe" requires information more reliable than that based on mere suspicion or an unsupported statement by a person without first-hand knowledge of the information.

Note: Information on the North Dakota Courts Website, which is available to the public, can be used as reliable information. The website is:
www.ndcourts.gov/publicsearch/contactsearch.aspx

This information can be shared with JOBS Employment Contractors without a specific client release of information based on the Department's contract(s) with JOBS and the fact that the communication of such information is essential to the proper administration of the JOBS program.

Workforce Safety and Insurance (WSI)

The Department provides Workforce Safety Insurance coverage to all participants in Community Service or Work Experience Activities. All Community Service or Work Experience worksites must be eligible for North Dakota Workforce Safety Insurance.

DHS renews the Volunteer Coverage through Workforce Safety and Insurance every State Fiscal year (July 1st through June 30th). JOBS Employment Contractors must submit a listing of all individuals participating in Work Experience or Community Service activities as of July 1st to State TANF/JOBS Policy. The report must be submitted via an excel spreadsheet. The excel spreadsheet will identify the name, SSN and start date of each participant.

The JOBS Employment Contractors must submit new enrollees in Work Experience or Community Service activities, throughout the State Fiscal Year, to State TANF/JOBS Policy by the 15th day of each month. Ensure that the account number (1227545) is always identified on the report

Participants that are reported during a state fiscal year (July 1 – June 30) are provided WSI coverage for that entire state fiscal year and do not need to be reported again for subsequent placements during that state fiscal year.

If a Community Service or Work Experience participant is injured "on the job," the participant must report the injury to the Community Service or Work Experience supervisor within seven (7) days from the date of the injury. The supervisor is required by state law to report the injury to the North Dakota Workforce Safety and Insurance within seven (7) days from the date the participant notifies the supervisor of the injury.

NOTE: Participants and supervisors are encouraged to report injuries within the first twenty-four hours to allow for more effective management of a claim.

The Community Service or Work Experience supervisor, with the assistance from the JOBS Employment Contractor, shall complete SFN 2828 -- "First Report of Injury." The instructions for completing SFN 2828, "First Report of Injury," can be found at www.workforcesafety.com/library/documents/forms/claims/FROlinstructions.pdf. This form can be completed either on-line or by using the manual form.

The Community Service or Work Experience agency representative or supervisor must complete the Employer's section of SFN 2828 "First Report of Injury" even though the participant is a volunteer and not an employee. The Community Service or Work Experience worksite supervisor or agency representative shall indicate in Section 4 of SFN 2828, "First Report of Injury," that the Employer Account Number is 1227545 and the Worker's Rate Class is 9835.

The cost of the volunteer JOBS participant's workforce safety insurance coverage and any claims for injuries related to their work activity at the volunteer worksite will be covered under the Department's contract with Workforce Safety and Insurance, not by the Community Service or Work Experience worksite.

1308
2
3/14

Once completed, the form must be mailed to: WSI, PO Box 5585, Bismarck ND 58505-5585 or faxed to WSI by calling 1-888-786-8695 or (701) 328-3820. A copy of the completed form must also be mailed to: TANF/JOBS Administrator, Department of Human Services, Public Assistance Division, 600 East Boulevard Avenue Dept. 325, Bismarck, North Dakota 58505-0250 along with a note indicating when the form was submitted to WSI.

Participation in Dual Programs (JOBS and PRIDE Programs)

There may be individuals who are participating in both the JOBS Program and PRIDE Program through Child Support Enforcement and Job Service. When this occurs, the JOBS Employment Contractor and PRIDE Coordinators must have discussion. The court ordered activity under PRIDE will be the activity for the JOBS Program.

These individuals are eligible for Supportive Services; however, they can only receive assistance from one program. The JOBS Program would be the first payer of these supportive services.

JOBS Employment Contractor - Responsibilities

The JOBS Employment Contractor is responsible to:

1. Meet with all referred individuals within seven (7) calendar days of the individual's first contact with them regardless of their geographic location within the service area. During this initial meeting, the JOBS Employment Contractor shall:
 - a. Provide the individual with a comprehensive orientation to the JOBS Program, clearly explaining TANF work requirements, participant responsibilities, and consequences for non-compliance; and
 - b. Complete a comprehensive assessment and develop an initial employability plan (EP); and
 - c. Inform participants of the availability of supportive services.
2. Refer all participants to one or more appropriate work activities and/or other appropriate services to prepare them for work.
3. Closely monitor participation and intervene if a participant fails to provide required verification of work, work readiness, or training activities.
4. Share all EPs and other pertinent information with the TANF Eligibility Worker.
5. Initiate and facilitate the good cause determination process, as appropriate.
6. Provide written documentation of the outcome of the good cause determination process.
7. Provide written documentation to the TANF Eligibility Worker that substantiates the recommendation for imposition of a JOBS sanction, including a detailed history of the participants failure or refusal to participate, the good cause reasons offered by the participant, if any were claimed, and any actions taken by the JOBS Employment Contractor.

1308
#2
3/14

8. Provide services, as defined in the contract between the Department and JOBS Employment Contractors, to non-exempt individual until the individual is no longer eligible to receive services. These include, but are not limited to, creating or identifying job openings, securing job interviews, and actively marketing participants for job openings.
9. Participate in Appeal Hearings when related to the JOBS Program, including but not limited to 'good cause' and sanctions.

In addition to the above duties, the JOBS Employment Contractors may create or discover job openings on behalf of participants as well as market participants for job openings and may secure job interviews.

JOBS Participants - Responsibilities

All non-exempt TANF applicants/recipients are required to participate in the JOBS program and are responsible to:

1. Contact the JOBS Employment Contractor to schedule an orientation appointment within seven (7) calendar days from the print date on the referral notice;
2. Keep all program related appointments as scheduled;
3. Comply with the goals, objectives and tasks listed on the Employability Plan (EP);
4. Be present at a worksite when scheduled to be there;
5. Participate in federally mandated work activities as required by the EP;
6. Maintain satisfactory progress in all program activities to which assigned.

1308
#2
3/14

Individuals Exempt from Participation in JOBS

TANF Policy at 400-19-75-10-05 defines individuals who are exempt from participation in the JOBS Program.

When an individual, who has been participating in the JOBS Program, becomes exempt from participation, it is NOT necessary for the contractor to continue tracking these individuals. Once an individual becomes exempt, the JOBS case should be closed. Upon receipt of notification of the case closure from the TANF Eligibility Worker, if the individual becomes non-exempt at a later date, a new referral will be required and sent to the contractor.

Exempt Individuals Who Choose to Volunteer

Individuals who volunteer must be referred to the JOBS or Tribal NEW Program provided they are otherwise eligible for assistance. Individuals who are exempt and volunteer to participate in the JOBS or Tribal NEW Program are subject to the same requirements as are non-exempt individuals.

Note: At the time an exempt volunteer chooses not to participate, notification must be sent to the TANF Eligibility Worker. The TANF Eligibility Worker will update their status back to exempt. Should that same individual, while still exempt, choose to be referred, a new referral must be created.

Individuals Excluded from Participation

TANF Policy at 400-19-75-10-15 defines individuals who are excluded from participation in the JOBS Program.

Individuals who are applying for, or appealing a denial of Supplemental Security Income (SSI) or Social Security Disability (SSDI) benefits are NOT excluded from JOBS Program participation. In these situations, the individual shall remain engaged in the JOBS program to assure compliance with medical professional's course of treatment and continue pursuing SSI or SSDI benefits. However, a modified Employability Plan may be appropriate.

Verified Provider of Care to a Disabled Family Member

TANF Policy at 400-19-75-10-15-05 defines the criteria and process to follow when pursuing 'good cause' for an individual due to being a verified provider of care to a disabled family member.

1308
2
3/14

Work Participation Requirements and Work Activities

Work Participation Rate Requirements

Federal Regulations require individuals to participate an average of 20 or 30 hours per week minimum, based on several criteria listed below. In order to ensure individual meet the minimum average hours per week, the minimum number of hours an individual must participate each month must be calculated as follows:

1. For those required to participate an average of 20 hours per week minimum, multiply 20 by 4.33, which equals 86.66 or 87(always round up) hours per month minimum;
2. For those required to participate an average of 30 hours per week minimum, multiply 30 by 4.33, which equals 129.90 or 130(always round up) hours per month minimum.

To determine the number of hours an individual must participate, the following criteria must be assessed:

1. If the individual has a child in the TANF household; and
2. If the age of the individual's youngest child in the TANF household is less than age 6; and

Note: A child is considered age 6 in the birth month if the child is born on the 1st day of the month. If the child is not born on the 1st day of the birth month, the child is considered age 6 effective the 1st day of the month following the birth month.

3. The relationship between the youngest child and the caretaker(s) in the case.

Note: Federal Reporting does not look at the child's participation in the TANF case.

- If the individual does not have a child in the TANF household, the individual is required to participate an average of 30 hours per week minimum.

Example: Individual in her third trimester of pregnancy and does not have any other children in the household. The individual is required to participate an average of 30 hours per week minimum.

- If the individual has a child under the age of 6 years, and the child does not have another caretaker in the household, the individual is required to participate an average of 20 hours per week minimum.

Example #1: A case consists of a 'work eligible' girlfriend who resides with her boyfriend and they do NOT have a child in common, but the girlfriend has deprived children from another relationship and the youngest child is under age 6 years. Only the girlfriend and her deprived children are included in the TANF household. Federal Reporting looks at the age of the youngest child AND the relationship between this child and the one adult caretaker in the household. The relationship determines this child only has a mother caretaker and since

the child is under the age of 6 years, the work eligible girlfriend is required to meet the average 20 hour per week minimum requirement.

Example #2: A case consists of a 'work eligible' individual who has two children. The youngest child is age 4 and is a 'benefit cap' child. Federal Reporting looks at the age of the youngest child AND the relationship between this child and the one adult caretaker in the household. The relationship determines this child only has a mother caretaker and since the child is under the age of 6 years, for Federal reporting purposes, the work eligible individual is required to meet the average 20 hour per week minimum requirement.

Note: For Federal Reporting purposes, we look at the age of the 'benefit cap' child, the number of caretakers the 'benefit cap' child has and the relationship between the 'benefit cap' child and caretaker(s). If the 'benefit cap' child is under the age of 6 years and there are two caretakers in the TANF household and the relationship between the caretakers and the child is a mother/father, the work eligible adult in the household has to meet an average 30 hours per week minimum. If there is only one caretaker in the TANF household, the caretaker in the household has to meet an average of 20 hours per week minimum, even if the relationship between the child and the one caretaker is something other than mother/child.

- If the individual has a child under the age of 6 years, and the child has another caretaker in the household, the individual is required to participate an average of 30 hours per week minimum.

Example: A case consists of a 'work eligible' girlfriend who resides with her boyfriend and they have a child in common who is under the age of 6 years, but in addition, the girlfriend has deprived children from another relationship, all these individuals are included in the TANF household. However, the child in common and the boyfriend are not included in the TANF grant as there is no deprivation of the child in common. Federal Reporting will look at the age of the youngest child AND the relationship between this child and the two 'caretakers' in the household. If the relationship determines this child has both a mother and father 'caretaker' and the child is under the age of 6 years, since there are two 'caretakers' in the case, the work eligible girlfriend is required to meet the average of 30 hour per week minimum requirement (even though the child in common is under the age of 6 years.)

Determining if a Participant meets the Work Participation Rate Requirements

Following is the process to determine if a participant met their Work Participation Requirements:

1. Determine the total number of monthly hours the individual participated in each activity.

1308
#2
3/14

2. For each activity, divide the total number of monthly hours by 4.33.
Note: If the result is .50 or greater, round up; if the result is less than .50, round down.

3. Total the result from each activity.
Example: A participant is required to meet 130 hours per month or an average of 30 hours per week. The individual verifies she has 89.23 hours from unsubsidized employment and 49.5 hours of Community Services. To determine if the individual met her Work Participation Requirements (WPR):
 - a. Divide the 89.23 hours of employment by 4.33, which equals 20.61 or 21 average weekly hours.
 - b. Divide the 49.5 hours from Community Service by 4.33, which equals 11.43 or 11 average weekly hours.
 - c. Add the 21 average weekly hours from employment plus the 11 average weekly hours for Community Services, which totals 32 average weekly hours. This individual has met the WPR.

Note: Allowable excused and holiday hours are counted when determining if an individual has met their Work Participation Requirements.

TANF Up-front Eligibility Requirements

As a factor of eligibility, individuals are required to meet JOBS or Tribal NEW Up-front Eligibility Requirements prior to receiving TANF Benefits. Information regarding JOBS or Tribal NEW Up-front Eligibility Requirements can be found in the TANF Manual at 400-19-35-10.

Pay After Performance

Effective with new TANF applications received on or after April 1, 2009, all TANF applicants who are required to participate in the JOBS program will be subject to the TANF 'Pay after Performance' policy. The 'Pay After Performance' policy in the TANF Manual at 400-19-40-15, states that during the first four (4) months of receipt of TANF benefits, JOBS participants will receive a TANF grant for their children only. Once the JOBS participant has met their monthly work participation requirements, the JOBS participant will receive his or her portion of the grant, as a supplemental benefit.

During the first four (4) months of TANF eligibility, the financial needs of the Pay After Performance individual can only be paid after the month (as a supplement). The Pay After Performance months are listed on the JOBS/Tribal NEW referral. The JOBS Employment Contractor must provide verification to the Eligibility Worker, for each Pay After Performance month, indicating whether or not the individual has met their work participation requirements for the previous month, as defined in their Employability Plan.

- If the verification indicates the individual met the work participation requirements for the previous month, as defined in their Employability Plan, the Eligibility Worker will reprocess the previous month's benefits and issue a supplemental benefit for the individual's financial needs.

1308
#2
3/14

- If the verification indicates the individual did not meet the work participation requirements for the previous month, as defined in their Employability Plan, the Eligibility Worker does not need to do anything further for the previous month.
Note: If the individual did not meet the work participation requirements defined in their Employability Plan, during the previous month, the JOBS Employment Contractor should have initiated the 'good cause' determination process.

For purposes of this section, "Full Week" is defined as a week where benefits were paid for Sunday of the week, and the majority, (4 or more), of the days for that week fall within the month. The individual is considered to have received a 'full weeks' benefit if they received a benefit for Sunday of the week and the majority (4 or more) of the days fall within the month.

Following is guidance to determine whether an individual met the work participation requirements during the Pay After Performance Period:

1. TANF Application is authorized in the Month of Application:

If an individual DID engage in one or more work activities for the minimum average number of hours in each full week, that the family receives assistance in that month, the individual shall be considered as having met the work participation requirements for Pay After Performance and is eligible to receive their portion of the grant. The JOBS Employment Contractor must provide verification to the Eligibility Worker indicating the individual has met their work participation requirements.

Example: An individual with a child over age 6 applied for TANF July 15th. The application is authorized and a referral to JOBS is completed on July 22nd. The individual participated 37 hours the week of July 20th and 28 hours the week of July 27th. Since the individual was engaged in one or more work activities for the minimum average number of hours in each full week (weeks of 20th and 27th), the individual is considered to have met the work participation requirements for July and is eligible to receive their portion of the grant for July.

2. TANF Application is authorized in the month following the month of Application:

When an individual is subject to Pay After Performance in the Application Month, if the individual has met the JOBS Up-front requirements, the individual shall be considered as having met the work participation requirements for Pay After Performance in the Application Month and is eligible to receive their portion of the grant.

For an individual to be determined to have met the JOBS Up-front requirement, the individual must:

- a. Contact the JOBS/Tribal NEW program within seven days from the print date of the referral AND schedule an initial appointment to begin program orientation.
- b. Complete the orientation as scheduled.

1308
#2
3/14

In addition, the JOBS Up-front requirement may include successful completion of a Proof of Performance.

Example: An individual with a child over age 6 applies for TANF July 17th. A referral to JOBS is completed on July 23rd. The applicant scheduled an initial appointment and completed the orientation on August 4th. The July application is authorized on August 5th, for the months of July and August.

For July, since the individual met the JOBS Up-front requirements, the individual is considered to have met the work participation requirements and is eligible to receive their portion of the July grant. The JOBS Employment Contractor must provide verification to the Eligibility Worker indicating the individual has met their work participation requirements for July.

For August, the individual will have to meet the work participation requirements specified in the Employability Plan, in order to be eligible to receive their portion of the August grant. The JOBS Employment Contractor must provide verification to the Eligibility Worker indicating the individual has met their work participation requirements for August.

Note: When an individual subject to Pay After Performance (PAP) is also required to complete a Proof of Performance (POP), if the individual meets their PAP requirement but not the Proof of Performance (POP) requirements:

- If this is a new application, the application would be denied as the individual did not complete their POP and thus did not meet their JOBS Up-front requirements.
- If this is an ongoing case, the individual would be considered as meeting their PAP requirement and the Employment Contractor must notify the TANF Eligibility Worker. However, if the individual is not meeting program requirements, then the 'sanction' process must be followed.

3. Individuals participating in the JOBS Program under a Modified Employability Plan: When an individual is participating in the JOBS Program under a Modified Employability Plan, if the individual meets the requirements of the Modified Employability Plan, the individual shall be considered as meeting their work requirement deduction and is eligible to receive their portion of the grant.

Example #1: A new application is received July 6th. Medical and Social Information is sent to the State Medical Review Team (SMRT) to determine if an individual can participate in the JOBS Program. The SMRT determines that the individual can participate, but on a limited basis and the Employment Contractor develops a modified Employability Plan. If the individual meets all the requirements set forth in the Modified Employability Plan, the individual is considered to have met the work participation requirements and is eligible to receive their portion of the grant for July.

1308
#2
3/14

The JOBS Employment Contractor must provide verification to the Eligibility Worker indicating the individual has met their work participation requirements for July.

Example #2: A new application is received July 2nd. The individual has been meeting their full work requirements through July 10th. The individual is injured and Medical and Social Information is sent to the State Medical Review Team (SMRT) to determine if an individual can continue to participate in the JOBS Program or is granted 'good cause'. The SMRT determines that the individual can participate, but on a limited basis and the Employment Contractor develops a modified Employability Plan beginning July 13th. Since the individual met their full work requirements through July 10th, if the individual meets all the requirements set forth in the Modified Employability Plan for the remainder of July, the individual is considered to have met the work participation requirements and is eligible to receive their portion of the grant for July. The JOBS Employment Contractor must provide verification to the Eligibility Worker indicating whether or not the individual has met their work participation requirements for July.

In all situations, the JOBS Employment Contractor must provide verification to the Eligibility Worker whether or not the individual has met their work participation requirements for the Application month, so the supplemental benefit can be issued if the individual met their work participation requirement.

NOTE: (Also See the 'Reporting of Hours for month of TANF Application' and 'Modified Employability Plan' Sections in this handbook).

Dependent Children age 16 and older

Minor Dependent Children age 16 and older become mandatory JOBS participants if the child is not attending school on a fulltime basis. These individuals are required to attend high school or pursue a GED, if they have not already graduated or obtained a GED.

Once the child is referred to the JOBS program:

1. The child would become exempt only if the child returned to a mainstream secondary school on a fulltime basis. When a child is referred to JOBS and returns to a mainstream secondary school on a fulltime basis, that information must be shared with the county. The child will become exempt from the JOBS Program and the county will send a JOBS Status Change form to the Employment Contractor.
2. If the child is pursuing a GED or placed in an alternative school, that child continues as a mandatory JOBS participant. When a child is referred to JOBS and participates in GED or the alternative school, that information must be shared with the county. The child continues as a mandatory JOBS participant so the employment contractor can monitor the child's participation in GED or the alternative school to ensure successful participation in education.

1308
#2
3/14

Good Cause reasons for not attending school, applicable only to Minor Dependent Children, are:

1. Temporary illness;
2. Disability, as verified by medical evidence; or
3. Incapacity, as verified by medical evidence

If a Minor Dependent Child age 16 or older, who is required to participate in the JOBS Program, fails to comply with the requirements of the JOBS Program, they are subject to sanction under the JOBS program due to non-compliance.

When a child between the ages of 16 – 19 is required to participate in the JOBS Program, their hours of participation are reported separately by using their SSN.

Appointments/Rescheduling

Individuals are required to make appointments to meet with the Employment Contractor for various reasons when participating in the JOBS program. When an individual misses their appointment, the individual must be given a chance to reschedule the appointment.

Note: When an individual calls on the day of a missed appointment to reschedule, it will be presumed the individual has met 'good cause' for failure to show.

Once the required period (e.g. 7 days from the print date of the referral, etc.) to contact JOBS has expired it will no longer be presumed the individual has 'good cause'. However, the Employment Contractor may make a determination that the individual did have 'good cause' and thus allow the client to reschedule.

Example #1: An individual is referred to JOBS on June 16th and is required to contact JOBS by Close of Business (COB) on June 23rd. The individual calls JOBS on June 18th and schedules an appointment for June 21st. The individual does not show for the appointment on June 21st, but calls on June 21st and reschedules the appointment for June 24th. The JOBS Employment Contractor reschedules the appointment and holds the referral until June 24th.

1. If the individual shows for the appointment on June 24th, the JOBS Employment Contractor proceeds with the individual as usual.
2. If the individual does not show for the appointment on June 24th, the JOBS Employment Contractor returns the referral due to 'failure to comply'.

Example #2: An individual is referred to JOBS on June 16th and is required to contact JOBS by COB on June 23rd. The individual calls JOBS on June 18th and schedules an appointment for June 21st. On June 21st, the individual does not show, and does not call by COB on the 21st to reschedule. Either after COB or the morning of the 22nd, the JOBS Employment Contractor returns the referral due to 'failure to comply'.

Example #3: The JOBS Employment Contractor determines on June 21st that an individual has failed to comply with the requirement of their Employability Plan.

The JOBS Employment Contractor sends the JOBS Good Cause Determination Notice to the client on June 22nd informing the client that a Good Cause Determination meeting has been scheduled for June 25th at 10:30 am. The individual does not show for the appointment on June 25th, but calls on June 25th and reschedules the appointment for June 28th.

1. If the individual shows for the appointment on June 28th, the JOBS Employment Contractor proceeds with the individual as usual.
2. If the individual does not show for the appointment on June 28th, the JOBS Employment Contractor makes a determination of whether or not to pursue imposition of a sanction.

Example #4: The JOBS Employment Contractor determines on June 21st that an individual has failed to comply with the requirement of their Employability Plan. The JOBS Employment Contractor sends the JOBS Good Cause Determination Notice to the client on June 22nd informing the client that a Good Cause Determination meeting has been scheduled for June 25th at 10:30 am. On June 25th, the individual does not show, and does not call by COB on the 25th to reschedule. Either after COB on the 25th or the morning of the 26th, the JOBS Employment Contractor makes a determination of whether or not to pursue imposition of a sanction and sends the appropriate documentation to the county.

Work Activities

Some of the approved work activities have specific time limits or special conditions for participation. The first priority in work activity placement is usually given to unsubsidized employment. If unsubsidized employment is not available or is not appropriate for the individual at that time, participation in one or more federally approved work activities shall be required.

Note: Please refer to the Work Verification Plan for detailed explanation of each Work Activity.

Core Work Activities

Nine of the twelve countable work activities in which participation can count toward meeting the first 20 hours of a 30-hour average weekly requirement. Additional hours to meet the 30-hour average weekly requirement can also be met with participation in these nine work activities.

1. Unsubsidized Employment - Including Self-Employment

Unsubsidized employment includes full or part-time employment in the public or private sector or in self-employment that is not subsidized by TANF or any other public program, self-employment, and employment by an employer that or who claims a tax credit for hiring an economically disadvantaged worker

When an individual works for wages or a combination of wages and tips, the actual number of hours worked are used to determine if she or he meets the minimum work requirement.

1308
#2
3/14

When an individual is self-employed, take the gross monthly earned income, less business expenses and divide by the current Minimum Wage to arrive at the monthly hours. Divide the monthly hours by 4.33 to determine the weekly hours.

2. Subsidized Employment - Public or Private

Subsidized private or public sector employment means employment in the private or public sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a work eligible individual.

North Dakota uses two models for subsidized private and public sector employment:

- a. Department of Human Services – Additional funds were received from the Administration for Children and Families due to the American Recovery and Reinvestment Act (ARRA) of 2009, which was signed by President Obama on February 17, 2009. These additional funds are available effective July 1, 2009 thru September 30, 2010, and will assist with expanding the Work Activity of Subsidized Private or Public Employment in the JOBS Program.

Prior to using these additional funds to subsidize employment, all other funding sources must be pursued with the exception of WIA funding. Individuals in a WIA supported program may not be placed in a TANF subsidized employment program. WIA funding would not be pursued prior to placement in a TANF subsidized employment program and verification of application for WIA funding would not be required. Documentation of the unavailability of other funding sources must be included in the casefile.

When an individual is placed in Subsidized Private or Public Employment, the employer will be reimbursed for the wages they pay to the JOBS participant, at the rate of minimum wage, for a period not to exceed six (6) months.

Note: The current Federal Minimum Wage is \$7.25 per hour effective July 24, 2009.

The employer:

- Cannot hire a JOBS participant to fill any established, unfilled position vacancy resulting from a layoff, termination or otherwise involuntary reduction of workforce in order to fill the vacancy with a subsidized employment participant. This must be a new position for an existing employer or be virtually any position for new or expanding employers; and
- Must understand the individual will need to be retained in employment indefinitely, after the six (6) month period expires. This is NOT temporary employment.

Prior to placing a JOBS participant in subsidized employment, SFN 414, "Subsidized Employment Agreement," must be completed and signed by the employer, JOBS employment contractor and the JOBS participant. This form is available electronically via e-forms @ www.nd.gov/eforms or through the Department of Human Services.

In order for the employer to receive reimbursement for the wages paid, the employer must complete form SFN 53656, "Substitute IRS Form W-9 for Businesses," and submit it to the JOBS employment contractor, along with verification of the wages expended for the month. The JOBS employment contractor will then submit all necessary forms to the state, including the W-9 and SFN 471, "Vendor Payment (TANF) Authorization and Request for Payment for Goods and Services," so that payment can be made. These forms are available electronically via e-forms @ www.nd.gov/eforms, or through the Department of Human Services.

A Monthly Report of Enrolled Participants spreadsheet has been developed to assist in tracking subsidized employment participants. Beginning with the month of September 2009, a monthly spreadsheet listing all participants involved in Subsidized Employment for the month must be completed. This information is necessary for reporting on the spending of ARRA funds to the federal government.

- b. Other (including but not limited to Workforce Investment Act (WIA) or Tribal WIA) Subsidized employment where other public funds such as Workforce Investment Act or Tribal WIA funds are paid to the employer to offset some or all of the wages and costs of employing a work eligible individual.

With the exception of on-the-job training (OJT), anytime a participant is paid a wage and a portion of the wage is subsidized, the participant's work activity should be categorized as subsidized employment.

Example #1: A JOBS participant is involved in paid employment and a portion of the participant's wage is subsidized under work supplementation. The participant's placement is categorized as subsidized employment.

Example #2: A JOBS participant is involved in paid employment and a portion of the participant's wage is subsidized under Workforce Investment Act (WIA) paid work experience funding. Since the participant is paid a wage and a portion of the wage is subsidized, the placement is categorized as subsidized employment, not work experience.

The JOBS contractor must indicate whether a participant is involved in public or private-sector subsidized employment.

3. Work Experience

Work Experience means a work activity that provides an individual with an opportunity to acquire general skills, knowledge and work habits necessary to obtain employment. The purpose of work experience is to improve the employability of those who cannot find unsubsidized employment. This activity must be supervised by an employer, work site sponsor, or other responsible party on an ongoing basis no less frequently than daily.

1308
#2 3/14

Work experience placements increase an individual's vocational skills and include training on hard job skills, such as use of a computer/software, filing, and operating trade tools in addition to soft job skills, such as arriving at work on time or following instructions. The length of the work experience training must be consistent with the level of job skills that will be taught.

The justification for placement in work experience must be detailed in the participant's Employability Plan. Individuals in work experience are considered trainees and as such are not subject to the requirements of the Fair Labor Standards Act provided that the following criteria are met:

1. The JOBS Employment Contractor is responsible to obtain a signed Work Experience Cooperative Agreement from the supervisor.
2. The JOBS Employment Contractor is responsible to monitor the work experience placement and contact should be made with the worksite supervisor during the initial weeks after placement.
3. The JOBS Employment Contractor is responsible to evaluate the participant's progress in achieving training goals. When a participant has gained the skills initially outlined in the training goals, the JOBS Employment Contractor will work with the individual and the worksite provider to determine if additional vocational skills can be learned at that worksite or if she or he should be moved to a different worksite to gain new vocational skills.

Substance Abuse Treatment, Mental Health Treatment or Rehabilitation Activities

Substance Abuse Treatment, Mental Health Treatment or Rehabilitation Activities that are not part of job search and job readiness assistance may count toward the work participation rate. If a portion of substance abuse treatment, mental health treatment or rehabilitation service meets a common-sense definition of work, then the hours associated with that work activity may count under the appropriate work category, such as work experience.

Example: A State may place an individual who is otherwise able to work, but for the need to reinforce substance abuse treatment, into a special program in which a single provider coordinates work and treatment in a halfway house or treatment environment. As part of that treatment program, the individual also fulfills assigned supervised, documented work responsibilities for the benefit of all the residents, such as preparing meals, housecleaning, or scheduling group activities. In that case, the State may report the hours the individual was in the work portion of the program as Work Experience. The time the individual spent in the treatment component does not count in the Work Experience category.

Soft Skills Training

To include hours of participation for soft skills training, the soft skills training must be directly related to the activity the individual is participating in under work experience.

Example: An individual is placed in a Work Experience setting of assisting the main receptionist of an agency. The agency suggests that the individual attended telephone etiquette training. Since this 'soft skills training' is directly related to the Work Experience, the hours of the training can be included.

4. On-The-Job Training

On-the-job training (OJT) provides, through a negotiated agreement, training in the public or private sector to a paid employee while he or she is engaged in productive work, and provides knowledge and skills essential to the full and adequate performance of the job. The training is intended to lead to permanent employment with the employer or one that is similar in its training requirements.

1. The agreement must be for a fixed price that does not exceed fifty (50) percent of the average wage paid by the employer to the participant during the training period.
2. The starting wage of an OJT training participant must be at least equal to the current federal minimum wage rate.
3. OJT training participants must be compensated at the same rates, and receive the same benefits, as other individuals employed by the employer.
4. Wages paid to an OJT training participant must be treated as earned income.

The JOBS Employment Contractor, in conjunction with the participant, will negotiate the terms of the OJT agreement with the employer. The agreement should address the length of the OJT placement. The agreement length will be based on the skill level of the individual and the demands of the occupation.

The agreement should address employment of the OJT participant upon completion of the training. However, OJT may be approved when there is not an explicit intent to retain the individual if the training would result in employment with another employer or increase the participant's employment potential.

If the participant does not meet the employer's requirements, the participant may be terminated. If the individual terminates before completing the training hours established in the agreement, the employer may claim costs incurred through the date of the termination.

Note: OJT placements cannot result in the displacement of persons currently employed or fill established unfilled job vacancies.

The employer will be responsible to provide time and payroll records for each participant. Reimbursement is based on the submission of a monthly invoice that reflects the individual's hours of work and wages. Employers must retain these records for a minimum of three years after the OJT agreement terminates as these records may be subject to audit.

1308
#2 3/14

The JOBS Employment Contractor will monitor the participant's involvement in OJT on a monthly basis through on-site visits, phone contacts and monthly evaluation reports submitted by the employer.

5. Job Search and Job Readiness

Job search and job readiness assistance means the act of seeking or obtaining employment, preparation to seek or obtain employment, including life skills training, and substance abuse treatment, mental health treatment, or rehabilitation activities. Such treatment or therapy must be determined to be necessary and documented by a qualified medical, substance abuse, or mental health professional.

The participant must provide the JOBS Employment Contractor with a signed written report of job contacts to attest to the report's validity. This record must be retained in the individual's case file. The JOBS Employment Contractor shall review the report of job search contacts to determine the individual's compliance with her or his EP.

- Employment Contractors shall randomly verify a participant's job contacts with the employer.

6. Community Service

Community service programs means structured programs and embedded activities in which TANF recipients perform work for the direct benefit of the community under the auspices of a public or nonprofit organization.

Participants in Community Service are subject to the requirements under the Fair Labor Standards Act. Participants in community service are considered employees and as such are entitled to consideration for minimum wage for their work.

The JOBS Employment Contractor must determine the maximum number of hours an individual can be required to do community service by dividing the regular monthly TANF benefit (prior to any reductions related to recoupment of an overpayment or financial penalties) (minus child support collections retained by the State to offset the amount of the grant) that her or his family receive by the current federal hourly minimum wage.

Example: The TANF grant is \$363.00 and SNAP Benefit is \$323.00. Total is \$686.00. Divide \$686.00 by \$7.25 (minimum wage) equals 94.62 hours per month.

To determine the average weekly hours, take 94.62 divide by 4.33 equals 21.85 average weekly hours.

Note: If, as in this example, the maximum hours allowed are less than the hours required, the individual may be required to complete additional hours in one or more other approved work activities to ensure that she or he meets the minimum hours of participation.

Number of Deemed Core Hours (Applies to Community Service only.)

If a work-eligible individual participates in the Community Service Program for the maximum number of hours permitted under the minimum wage provision of the Fair Labor Standards Act (FLSA) and the hours do not meet the "core" hour participation

1308
#2 3/14

requirement (which is 20 average hours per week) we can "deem" the core hour requirement met. (See Deeming of Core Hours in the Verification of Actual Hours of Participation Section).

Additional/further Information/clarification:

1. Contractor Staff may contact the Eligibility Worker (or State TANF/JOBS policy if the Eligibility Worker is unavailable) to obtain the TANF and SNAP benefit amounts or obtain a copy of the participants benefit notice for SNAP and TANF. (January benefits determine January hours for Community Service.)

Note: Since SNAP benefits may not change on a monthly basis, notification of each month's benefit may not be sent to the individual. If the individual indicates they did not receive notification of their benefit amount, the contractor must contact the Eligibility Worker or State TANF Policy Staff to obtain the information.

2. An individual cannot be required to participate in Community Service for more hours than the number of hours determined by totaling the TANF grant (minus any amount of child support collections retained by the State to offset the amount of the grant) plus SNAP (formerly Food Stamp) benefit divided by the minimum wage (e.g. TANF grant of 328 plus SNAP benefit of 323 equals 651. 651 divided by 7.25 = 89.79 hours is the maximum # of hours the individual can be required to participate in Community Service for the month.)

7. Vocational Education Training

Vocational educational training means organized educational programs that are directly related to the preparation of individuals for employment in current or emerging occupations.

Federal TANF law currently allows states to count an individual's participation in vocational education for no more than a lifetime total of 12 months when calculating the state's work participation rate. JOBS participants shall only be allowed to participate in vocational education as their exclusive, approved work activity for the lifetime maximum of 12 months.

Note: The TANF Final Rule (02/05/2008) allows time spent in a bachelor's degree program to count under Vocational Education Training.

English as a Second Language (ESL) can count as Vocational Education Training when it is a component of a vocational certificate, license, etc., if required to complete another course of study, or degree.

JOBS staff shall monitor an individual's involvement in Voc Rehab to ensure the individual is complying with her or his educational plan and that continued involvement in vocational education/training is appropriate.

Determinations to require an individual to engage in other non-educational approved work activities shall be made on a case-by-case basis in consultation with the client and the client's Voc Rehab counselor.

1308
#2
3/14

Ultimate responsibility for approving an individual's TANF/JOBS work activity shall rest with an individual's JOBS Employment Contractor.

8. Providing Child Care Services to a Participant Involved in a Community Service Program

A participant may provide child care for another JOBS participant who is engaged in community service only. When doing so, the actual hours of child care provided are used to meet the individual's minimum work requirement.

When an individual is paid for providing child care for another JOBS participant, the work activity is classified as paid employment and may not be classified as the provision of 'Child Care to a Participant Involved in Community Service.'

Non-Core Work Activities

Three of the twelve countable work activities which participation cannot count toward meeting the first 20 hours of a 30-hour average weekly requirement. However, participation in these activities can count towards meeting the required hours above the first 20. Non-core activities may not count as core activities.

1. Job Skills Training Directly Related to Employment

Job skills training directly related to employment means training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace.

A JOBS participant who is participating in JOBS Skills Training directly Related to Employment and lacks adequate English skills may be required to participate in English as a Second Language (ESL) class. Individuals with a Basic English Skills Test (BEST) score of lower than three (3) shall be required to participate in an ESL class.

2. Education Directly Related to Employment

Education directly related to employment, in the case of recipient who has not received a high school diploma or a certificate of high school equivalency means education related to a specific occupation, job, or job offer.

A JOBS participant who is participating in Education Directly Related to Employment and lacks adequate English skills may be required to participate in English as a Second Language (ESL) class. Individuals with a Basic English Skills Test (BEST) score of lower than three (3) shall be required to participate in an ESL class.

3. Satisfactory Attendance in Secondary School or a Course of Study Leading to a GED

When a JOBS participant, under the age of 20, is attending secondary school or is involved in a course of study leading to a GED, the individual's work activity should be classified as satisfactory attendance in secondary school or a course of study leading to a GED.

1308
#2
3/14

A JOBS participant, under 20 years of age, who is involved in educational activities as their sole work activity, will be expected to attend those activities on a full-time basis, unless the JOBS Employment Contractor determines that, due to extenuating circumstances, the participant is unable to attend on a full-time basis.

A JOBS participant, under the age of 20, is considered to meet the minimum work requirement if he or she:

- a. Maintains satisfactory attendance at a secondary school or its equivalent during the month; or
- b. Participates in other educational activities directly related to employment for an average of at least 20 hours per week during the month.

If a JOBS participant, under the age of 20, is engaged in some other educational activity other than secondary school or GED, then the individual's work activity should be classified as education directly related to employment.

When a JOBS participant, age 20 or older, is attending secondary school or is involved in a course of study leading to a General Equivalence Diploma (GED), the individual's work activity should be classified as education directly related to employment.

Other Activities

'Unpaid' Child Care as a Countable Work Activity

The only time 'Unpaid' child care can be counted as a work activity is when one JOBS participant provides 'unpaid' child care services to another JOBS participant who is participating in a Community Service work activity.

- The Contractor Work Activity Code of '12' (Providing Child Care Services to an Individual who is participating in Community Service) would be used in this situation.

Home Schooling/Education

Home schooling/education can be used as an approved work activity under Work Experience, provided the activity can be supervised and monitored. The parent will be asked to verify that they are in fact providing home education and could provide a copy of the 'Statement of Intent' to home educate that must be submitted to the school district of residence. In addition, perhaps the local school superintendent or a school appointed monitor could be used for supervision/monitoring purposes and perhaps could also sign off on the timesheets.

Information regarding home schooling/education can be found on the web at <http://www.legis.nd.gov/cencode/t151c23.pdf>

or

<http://www.dpi.state.nd.us/approve/home/faq.pdf>

Non-Traditional Activities

Various non-traditional activities may count if they meet the definition of one of TANF's 12 activities. (E.g. hunting, fishing, canoeing, bead working, baking, serving at funerals, etc.) It is possible, for example, that some of the activities described would meet the definition of Vocational Education, Community Service or Work Experience programs, if the items produced are shared by the community and collected as part of a structured and supervised activity.

All non-traditional activities such as quilting or beading must occur in a supervised group setting to meet federal requirements. Supervised meaning someone is overseeing the activity. This means watching over the activity or task being carried out by somebody and ensuring that it is performed correctly or in charge of the group engaged in the activity or task to ensure that they perform the task correctly.

1. These activities would have to occur in a group setting and someone is designated as the leader/supervisor.
2. The leader/supervisor could verify the amount of time spent on the activity and sign the time sheet. In all activities, the leader/supervisor will keep the group on course and moving.
3. The activity could occur in a community center, church, or home.
4. The activity must have prior approval from the case manager and the case manager must have a full understanding of the activity, where it is taking place and who will be the leader/supervisor in charge.

Note: If there isn't a person in charge, it may mean the group establishing a leader so that the individual may have someone who can verify and sign off on hours.

Example: If a quilting group is established, someone must take the lead with guiding the group to stay on task.

To count as Vocational education, the state would have to demonstrate how the culturally relevant training consisted of "organized education" and was "directly related to the preparation of individuals for employment in current or emerging occupations."

If an activity could be counted as Community Service or Work Experience, the activity would need to demonstrate that it is for the direct benefit of the community under the auspices of public or nonprofit organizations. In order to be allowed, supervision and documentation of hours are required.

Attending a pow-wow does not constitute a work activity. However, any hours the individual volunteers during the pow-wow can be counted, provided the individual is supervised and the hours are verified.

Examples of volunteer activities that may be countable are:

1. Setting up for a pow-wow (e.g. setting up bleachers, cutting grass, etc.);
2. Preparing, packaging or serving food;

1308

#2

3/14

3. Directing traffic/parking;
4. Security;
5. Cleaning up after the pow-wow

NOTE: Volunteer activities are those in which the individual does not receive wages.

Attending a funeral does not constitute a work activity. However any hours an individual volunteers in an organized group activity to prepare for a funeral can be counted towards their work participation requirements, provided a non-family member provides verification of the activity

Examples of activities that may be countable are:

1. Preparing food;
2. Making quilts;
3. Setting up or cleaning, etc.

NOTE: Volunteer activities are those in which the individual does not receive wages.

1308
#2
3/14

Obtaining History of JSA/JRA and Vocational Education Hours of Participation

JSA/JRA and Vocational Education have Federal durational limits and these durational limits cannot be exceeded, even if an individual moves from one state to another. When an individual reapplies for TANF and had previously participated in the JOBS Program, either in North Dakota or another State, it is the responsibility of the Employment Contractors to determine if the individual utilized all of their JSA/JRA hours/weeks in the preceding 12 months, or their Lifetime Vocational Education months, since these two activities have durational limits.

- For those individuals who may have utilized JSA/JRA hours/weeks or Vocational Education months within North Dakota, the State TANF/JOBS Office can assist the contractor in verifying the activity hours for those two activities. To request verification of the individual's history of participation in Job Search/Job Readiness or Vocational Education, send an e-mail to the -Info-DHS TANF-JOBS Policy group mailbox and include the individuals Name, SSN, Case Number and Client ID, if available.
- For those individuals who may have utilized JSA/JRA hours/weeks or Vocational Education months in another state, the Employment Contractor will need to ask the JOBS participant what type of activities they were involved in while on TANF in the other state, document that information and count those hours/weeks/months towards the durational limits.

Vocational Rehabilitation

Periodically, individuals who are referred to the JOBS Program are or become participants of Vocational Rehabilitation (VR). In order to avoid duplication of services, when the Employment Contractor becomes aware that a JOBS participant is also participating with VR, the Employment Contractor shall contact the VR counselor.

An Employability Plan is required of every TANF work eligible client. A team approach shall be used in the development of the TANF Employability Plan when both the VR and Employment Contractor have a client in common.

The first Employability Plan is developed during orientation (the first meeting). This plan basically identifies supportive services for the client and a basic work activity. The Employability Plans under this program are a work in progress and may be modified at any point in time. When any subsequent Employability Plans or meetings occur, the VR counselor shall be invited to participate in those follow-up meetings.

Clients that are unable to fully meet the required hours under TANF are requested to provide medical documentation to support the reduction in hours every 30 days. On a case-by-case basis, the Case Managers and VR Counselors will determine if this time period may be extended. If the Regional VR office and Employment Contractor staff cannot reach an agreement, TANF State Office and VR State Office will discuss the issue. If State TANF/VR Offices cannot reach an agreement, the Directors of both Divisions will be requested to make a decision.

Open communication will be used to discuss any issues or concerns that may arise.

Hours of participation in VR activities will count towards their JOBS participation if the activity is comparable to the JOBS activity.

Supportive Services

TANF will be the first payer for supportive services. VR will provide supportive services not provided under TANF or in cases where the client has used the maximum allowed under the TANF program.

Release of Information Requirements

A Release of Information will be required when the Employment Contractor contacts VR. Once a Release of Information is obtained, the Employment Contractor will provide the VR Counselor with a copy of the Employability Plan for clients that are in-common.

1308
#2
3/14

Orientation and Work Assessment

Orientation Process

The JOBS Employment Contractor will provide a comprehensive orientation of the JOBS program to the individual and will explain:

1. The relationship between the DHS, the county, and the JOBS program along with the responsibilities of each entity.
2. The JOBS program's emphasis on employment and accountability.
3. Time limits and options for participation in allowable work activities and required hours of participation if full-time unsubsidized employment is not available.
4. The individual's responsibilities for maintaining satisfactory participation.
5. What constitutes noncompliance as well as the consequences for noncompliance? In doing this, the JOBS Employment Contractor is to review NDAC § 75-02-01.2-102 "Failure or Refusal to Participate" with the individual and provide specific examples of noncompliance.
6. The financial incentives available through the JOBS program, including supportive services and Post-TANF supportive services.

Work Assessment

The JOBS Employment Contractor shall complete a general program orientation. The JOBS Employment Contractor shall, in consultation with the participant, make an assessment of work skills, work experience, and potential barriers to employment. The assessment is used to develop an Employability Plan for the participant, which will be designed to move the participant into allowable work activities that match the individual's capabilities and will help move the individual toward self-sufficiency. The cooperation, assistance, and consultation of the participant is important to the accuracy of the assessment, but is not required if the participant seeks to use participation as a means of blocking or delaying entry into the work force.

1. The assessment is based on:
 - a. The participant's work skills;
 - b. The participant's prior work experience;
 - c. The participant's mental and physical limitations affecting employability; and
 - d. Other factors that may affect the participant's potential for employment.

The assessment shall include a work assessment. A work assessment, as a sole activity, may not extend for more than seven (7) calendar days. Although the work assessment

1308
#2
3/14

must be completed within this timeframe, the assessment should not be considered a static or one-time event. Assessment should be an ongoing process and is an essential component of good case management.

When a JOBS Employment Contractor becomes aware of significant new information about a participant, he or she should update the participant's assessment and make revisions to the participant's Employability Plan as appropriate.

The purpose of the work assessment is to identify a participant's:

1. Work skills, marketability and transferability of work skills;
2. Work experience including the type and duration of employment, history of short-term jobs, gaps in employment, reasons for leaving jobs and consistency of work;
3. Basic educational and literacy skills; and
4. Child care, transportation, and other supportive service needs.

The work assessment is also used to help screen for potential employment or participation barriers. An employment or participation barrier is defined as anything that hinders or impedes a participant's ability to become self-sufficient, successfully participate in, or comply with, JOBS program activities/requirements.

Potential employment or participation barriers may include, but are not limited to, such things as:

- a. Alcohol and other drug problems;
- b. Mental health problems;
- c. Physical disabilities;
- d. Learning disabilities; and
- e. The physical, emotional, or psychological effects of domestic violence.

The mere existence of one or more potential employment/participation barriers, or a positive response to one or more of the formal screening questions, contained in the JOBS work assessment, by itself does not necessarily indicate a need to refer an individual for further assessment, service, or care.

A potential barrier(s) must be looked at in combination with the participant's ability to find or maintain work, succeed in education or training activities, or to comply with other JOBS program requirements.

When there has been some indication of a potential employment or participation barrier, and a participant has been unable to succeed or comply, as described above, then a referral for comprehensive assessment should be made.

1308

#2

3/14

Based on NDCC 50-09-31, when domestic violence is identified as a potential employment or participation barrier, a referral must be made to a local domestic violence, sexual assault organization for comprehensive assessment, safety planning, and potential services. (For further information refer to the Good Cause due to Domestic Violence section of this handbook.)

A participant may be required to undergo comprehensive assessment and to follow through with any subsequent service/care recommendations made by the agency conducting the comprehensive assessment.

Prior to referring a participant for comprehensive assessment, a signed release of information must be obtained from the participant, authorizing the release of information regarding the individual's involvement in TANF/JOBS and the receipt of assessment results, service/care recommendations from the agency conducting the assessment.

Employability Plans

The JOBS Employment Contractor shall develop an Employability Plan (EP) in consultation with the participant and others, as appropriate. (An EP is not a contract and the participant's signature is not required in order for the plan to be enforced.) The EP shall establish the individual's employment goals based on the work assessment and the individual's plan for obtaining and retaining unsubsidized employment with a wage great enough to become self-sufficient. The EP must outline the steps necessary for the participant to move into allowable work activities that match the individual's capabilities based on any identified physical, mental, emotional, or intellectual impairment.

The initial EP must be completed within seven (7) calendar days from the date of the initial meeting between the JOBS Employment Contractor or Tribal NEW Coordinator and the participant. Copies of the initial EP should be provided to the participant and the TANF Eligibility Worker.

The cooperation, assistance, and consultation of the participant are important to the appropriateness of the EP but are not required. An individual refusing to sign an EP is still required to comply with its requirements. For participant's who refuse to sign, an attempt must be made to obtain a signature, as a signed plan should be on file in case of appeal situations.

Note: If an EP is completed by telephone, the JOBS Employment Contractor will send the unsigned EP to the TANF Eligibility Worker with a note that the signature is being pursued. The TANF Eligibility Worker should follow the requirements of the unsigned EP.

Employability Plans developed jointly between the JOBS participant and the Employment Contractor via the telephone, or when the participant refuses to participate in the development, by the Employment Contractor. In either situation, a 'signed' plan 'should' be on file in case of appeal situations. Once the plan is developed, the Employment Contractor needs to send the plan to the participant to sign.

Note: According to JOBS policy, the participant may refuse to sign, but we need to at least attempt to gather a signature. Therefore, you can send the Employability Plan with the documentation in the signature area for now and let the EW know that you are trying to obtain the signature. However, the EW should follow what is in the EP. When the participant has refused to sign the EP, all Supportive Services should be stopped until such time as they sign it.

The Employability Plan must:

1. Contain an employment goal to move the participant immediately into approved work activities that match the participant's capabilities based on any identified physical, mental, emotional, or intellectual impairment;
2. Describe any reasonable accommodations needed to enable the participant to comply with program requirements;

1308
#2
3/14

3. Describe the supportive services to be provided to enable the participant to comply with program requirements;
4. Describe the steps to be taken by the participant to achieve self-sufficiency; and
5. Describe the progress the participant has made since the previous Employability Plan.

The employability plan is not a contract and may not be so interpreted, considered, or applied.

Whenever an individual needs to complete a Proof of Performance (POP), whether they are an applicant or recipient, the JOBS Employment Contractor must document on the EP the length of the POP period and the steps necessary to cure the JOBS Sanction.

When an individual is referred to JOBS, the Employment Contractor is responsible for them until they become exempt or the case closes.

Note: In the case of the 17 year old who is referred to JOBS, the Employment Contractor is responsible for the individual's participation until they receive verification from the county that the individual is exempt or the case has closed.

Employability Plans should be a fluid document that reflects changes in the JOBS participant's life. Current Policy states the Employability Plan must be reviewed a minimum of two times per year with relevant changes made based on the individual's progress and needs. However, the expectation is that the Employability Plan be reviewed on a more consistent basis, at a minimum of monthly until such time as the person is stabilized in their work activity, and no less than every 3 months thereafter.

Individuals eligible for Transition Assistance are considered stabilized in their work activity and may have their Employability Plans approved for longer periods of time, but for no more than 3 months..

Modified Employability Plan

A modified Employment Plan (EP) allows an individual to participate in the JOBS Program at a reduced level, even though the individual's participation does not meet federal participation requirements. A modified EP can be approved by either the Employment Contractor or at the recommendation of the State Review Team. Modified EP can be created for participants:

1. When there is current, clear and specific medical documentation that identifies the individual's physical, mental, emotional, or intellectual impairment(s);

Note: The medical documentation does not need to be provided by a licensed physician. Any qualified professional working within the physical, mental, emotional, or intellectual fields can provide the medical documentation.

1308
#2
3/14

A qualified professional working within the physical, mental, emotional, or intellectual fields is one who has the training and skills related to the medical condition.

2. For 60 days following the date of entry into the United States as a Qualified Alien, when the Qualified Alien has Limited English Proficiency (LEP); or
Note: If the Qualified Alien is proficient in the english language, a modified plan would not be applicable.

3. For individuals subject to Family Violence, who are participating in family violence counseling.
Note: When a Modified EP is created for individuals subject to Family Violence, participation in family violence treatment activities are countable hours for federal reporting purposes.

When a Modified Employment Plan is being pursued on behalf of an individual:

- If the individual has provided all information, a Modified Plan should be temporarily approved until receipt of the State Review Teams Decision.

- If the individual has not provided all information and the information provided does not warrant a Modified Plan, a Modified Plan should not be approved.

1308
2
3/14

TANF/JOBS Supportive Services

The state contracts with Employment Contractors to provide JOBS employment services and remove barriers preventing the TANF population from becoming self-sufficient. Anytime a request for payment of a supportive service is needed to remove a barrier that is preventing a JOBS participant from becoming self-sufficient, it is the responsibility of the Employment Contractor to determine whether or not to approve the request in order to remove the barrier.

Non-allowable Supportive Services

Department of Human Services will not approve payment for the following supportive services/vendor payments:

1. Expenses related to heating/cooling;
2. Medical expenses such as eye glasses, prescriptions;
3. TB testing (when eligible to be covered by Medicaid);
4. Items for other members of the household;
5. Purchase of car parts for JOBS participants with the intent to have friend/relative install;
Note: Purchase of car parts can be approved if installed by a professional service.
6. Copies of Medical Records when pursuing JOBS Good Cause and Verified Provider of Care (VP) determinations;
7. Any medical services provided to an individual eligible for Medicaid, when the service is covered by Medicaid.

Allowable Supportive Services

DHS will approve payment for the following supportive services/vendor payments to a participant who, but for supportive services would be unable to enter into or remain in an allowable work activity.

If a JOBS participant is granted 'Good Cause' or an Exemption and is not participating in the JOBS Program, the participant is exempt from any further JOBS program participation and as such, JOBS supportive services cannot be expended on this individual.

TANF Policy in Sections 400-19-65-05 through 400-19-65-30 defines the allowable supportive services and the amounts allowed for each. In addition to the information in the TANF Policy Manual:

1308
#2
3/14

1. Job Search/Job Readiness (Clothing):

Coats, Scarves, Gloves and Snow Boots

Assistance with the purchase of coats, scarves, gloves and snow boots can only be approved for individuals whose work activity requires the individual to be outdoors for extended periods of time, (other than going to and from work), or for those individuals who walk long distances to and from their work activity, AND then only after all other sources have been exhausted. The most economical means available must be utilized when assisting individuals with these items.

Note: 'Other Sources' may include used clothing stores, non-profit organizations who receive and re-distribute clothing, etc

Interpreter Fees

Interpreter fees may also be reimbursed under the Job Search/Job Readiness supportive services. (See Section titled 'Interpreter Services' below).

Prepaid Phone and Phone Minutes

Assistance can be authorized for JOBS Participants to purchase a prepaid phone and/or minutes when the activity they are participating in requires them to have a telephone. Payment for the prepaid phone and minutes can be authorized under the JOBS Supportive Services of Job Readiness Assistance or Tools for Employment.

Note: Job Readiness Assistance has a \$250 per participant, per state fiscal year (July 1 through June 30) limit and Tools for Employment has a \$150 per participant, per state fiscal year (July 1 through June 30) limit.

Assistance for a prepaid phone and a monthly minute allowance will be allowed to be authorized, via Vendor Payment, when the activity the individual is participating in requires them to have a telephone and the JOBS participant:

- Is placed in an approved JOBS activity; and
- Does not have a cell or home telephone.

Example #1: An individual is hired for a job but the job requires the individual to have a telephone with them at all times. Since this is a requirement of the job, we could allow payment of a prepaid phone and/or minutes under the JOBS Supportive Service of Tools for Employment.

Example #2: An individual is placed in Job Search. The individual does not have a cell or home phone, but the Job Applications request a contact number. Since the individual needs to be accessible to the potential employers, we could allow payment of a prepaid phone and/or minutes under the JOBS Supportive Service of Job Readiness Assistance.

The prepaid phone and/or minutes must be purchased through a vendor payment, from any approved, authorized vendor, but Employment Contractors should utilize the most economical means available. Also, the Employment Contractor and participant should pursue whether the participant qualifies for Link Up and Lifeline Programs. (See TANF Manual Section 400-19-65-15, Types of JOBS Supportive Services for a link to information regarding the Link Up and Lifeline Programs).

1308
#2
3/14

Note: Only one prepaid phone will be allowed to be purchased per state fiscal year (July 1 through June 30). Also, authorization of prepaid minutes must be determined on a monthly basis as needed.

2. **Transportation Assistance** based on mileage is calculated by multiplying the number of actual or estimated miles required to support the individual's approved work activity or a self-initiated educational activity in a calendar month, by \$0.45, the current reimbursement rate for travel.

Calculating Transportation Payments

- a. A client begins participation in the JOBS or Pride program on September 3rd, the transportation calculation would need to be done for the period of September 3rd through September 30th as follows:
- September 3rd thru September 30th has 20 working days in which the individual may need assistance with transportation. The individual's mileage is 6.5 miles per day. Calculating the individual's need, take 20 days times 6.5 miles per day equals 130 miles, times \$.45 per mile equals \$58.50.
- b. A client begins participation in the JOBS or Pride program on September 27th; the transportation calculation would need to be done for the period of September 27th through September 30th. If the need for a transportation allowance continues for October, the transportation allowance would be calculated for the period of October 1st through October 31st. The individual drives 8.7 miles per day.
- September 27th thru September 30th has 4 working days in which the individual may need assistance with transportation. Calculating the individual's need, take 4 days times 8.7 miles per day equals 34.80 miles, times \$.45 per mile equals \$15.66.
 - October 1st thru October 31st has 21 working days in which the individual may need assistance with transportation. Calculating the individual's need, take 21 days times 8.7 miles per day equals 182.7 miles, times \$.45 per mile equals \$82.22.

Note: The request for payment can include the amount for both months, but as you can see, the calculation was completed by calendar month.

- c. A client begins participation in the JOBS or Pride program on September 7th, the transportation calculation would need to be done for the period of September 7th through September 30th. The individual drives 10 miles per day on Monday, Wednesday and Friday and 2 miles per day on Tuesday and Thursday. The calculation would be as follows:
- 10 days at 10 miles per day equals 100 miles and 8 days at 2 miles per day equals 16 miles. Total miles are 116 miles times \$.45 per mile equals \$52.20.

1308
#2
3/14

3. **Tuition Assistance** may also be utilized for payment of interpreter services for the participant to be successful in their approved JOBS work activity. The Employment Contractor and/or participant must provide verification of the cost of the interpreter service as well as the reason the service is needed.

Interpreter fees may also be reimbursed under Tuition Assistance supportive Services after all case management contract and Job Readiness Assistance funds have been exhausted. (See Section titled 'Interpreter Services' below).

4. **Vehicle Repair and Insurance** - The vehicle must be registered to the JOBS participant or an 'eligible' member of the JOBS participant's TANF household;
Note: An 'eligible' member means a household member who is eligible for TANF in the case, or a spouse who is either eligible or ineligible.

Interpreter Services

Individuals residing in the United States who apply for TANF benefits may be in need of interpreter services. Federal law requires 'States and other providers of health and social services to avoid discrimination against Limited English Proficient (LEP) persons on grounds of national origin, and states and other providers of health and social services must take adequate steps to ensure that such persons receive free of charge the language assistance necessary to afford them meaningful access to the services.'

1. If the Employment Contractor requires interpreter services for a JOBS participant during office visits to complete orientation, assessment and Employability Plan Development, the cost for those interpreter services would be paid by the Employment Contractor from their case management contract dollars.
2. If the JOBS participant requires interpreter services to be successful in their approved work activity, then the JOBS support service dollars could be expended on behalf of the JOBS participant utilizing 'Job Readiness Assistance' as a first resort and 'Tuition Assistance' as a last resort.

1308
#2
3/14

Vendor Payment Process

In order for a Vendor Payment to be processed, the Vendor must complete one of the following forms:

- SFN 54309 Individual Payee (Non-Business) Substitute IRS Form W-9
This form is completed if this is an individual provider. For example – An individual that provides child care for a TANF recipient under essential services provision. (A copy can be obtained at <http://www.nd.gov/eforms/>)
- SFN 53656 Business Payee Registration Substitute IRS Form W-9
This form is used for all business providers. (A copy can be obtained at <http://www.nd.gov/eforms/>)

If the vendor has never provided services to the North Dakota Department of Human Services, the appropriate W-9 form must accompany the request for payment form SFN 471. The appropriate W-9 form is to be returned to Public Assistance along with the vendor request. The W-9 forms may be mailed or faxed to Public Assistance Office (fax number is 701-328-1060) for processing.

If you do not know whether a provider has completed a W-9 form, Sandy Albrecht or Nadine Philp will research the provider list. They may be reached by email or by telephone, Sandy Albrecht (328-3513) or Nadine Philp (328-2332).

A copy of the invoice should be obtained after the service has been completed. Also, the SFN 471 should only be signed by the Vender after the service is completed.

Verification of the expense (copy of invoice) and the signed request for payment form SFN 471, Vendor Payment (TANF) Authorization and Request for Payment for Goods and Services must be submitted to the State TANF Policy office by mail or fax (701-328-1060) for processing.

Note: The North Dakota Department of Human Services is tax exempt. Vendors cannot bill the Department or JOBS participants for taxes on goods and services.

1308
#2
3/14

Good Cause Determination and Sanctions - Responsibility of JOBS Employment Contractor

Good Cause for Non-Participation

A JOBS participant who is unable to work or participate in at least one of the JOBS work activities may be granted good cause by the JOBS Employment Contractor or Eligibility Worker, to temporarily excuse the participant from JOBS participation based on any one of the following reasons:

1. The JOBS participant is incapacitated with a physical or mental impairment verified by reliable medical evidence which, by itself or in conjunction with age, prevents the participant from working or participating in any JOBS work activity.
2. A JOBS participant has an illness or injury, verified by reliable medical evidence and reviewed every thirty days, which is serious enough to temporarily prevent entry into employment or participation in any JOBS work activity; or
3. In the case of a parent or other eligible caretaker relative of a child under age six, who is personally caring for the child full-time and who demonstrates an inability to obtain needed child care for one or more of the following reasons:
 - a. Child care is not available at a location that is one hour or less from the parent's home to the location at which child care is provided, and on to the parent's worksite;
 - b. Suitable child care is not available from a relative, from an approved child care provider licensed or registered under North Dakota Century Code chapter 50-11.1, or from a child care provider not required to be licensed or registered under North Dakota Century Code chapter 50-11.1; or
 - c. Child care is not available from a child care provider licensed or registered under North Dakota Century Code chapter 50-11.1, at a rate equal to or less than two (2) times the maximum allowable amount as determined by the child care assistance program. (The current maximum allowable amount is \$480 so two (2) times the maximum allowable amount if \$960.)
4. The JOBS participant is a victim of Domestic Violence which prevents the participant from working or participating in any JOBS work activity.
5. Contractor Limit good cause may only be used when the Department determines it is necessary to administratively limit the number of individuals being referred to, or participating in, the JOBS program. The Department will inform counties when and how contractor limit good cause may be used.

An individual who is referred to JOBS and keeps her or his orientation appointment as scheduled is considered a JOBS participant.

1308
#2
3/14

Once an individual is considered a JOBS participant, if she or he fails or refuses to comply with JOBS program requirements, the JOBS Employment Contractor is responsible to oversee the good cause determination process.

The JOBS Employment Contractor is responsible to send a Good Cause Determination notice to the individual within two (2) calendar days after learning of the participant's failure or refusal to comply. The Good Cause Determination Notice shall offer the individual an opportunity to show good cause for the failure or refusal to comply and must state:

1. The date, time, place and reason for the Good Cause Determination meeting with the JOBS Employment Contractor; and
2. A sanction will be imposed if the participant:
 - a. Does not attend the good cause meeting; or
 - b. Does not show good cause for failure or refusal to participate, as required.

NOTE: Individuals scheduled for a good cause meeting cannot be required to meet prior to their scheduled meeting. This guarantees individuals 'due process'.

The JOBS Employment Contractor must schedule the appointment for a time and date that will allow three (3) business days for delivery of the notice.

Example: A Good Cause Determination notice is sent to a participant on November 5th. The appointment must be scheduled for any day beginning November 9th through November 12th, to allow four (3) business days for delivery.

The JOBS Employment Contractor must meet with the JOBS participant within seven (7) calendar days from the print date of the Good Cause Determination notice, to determine good cause for the failure or refusal to participate. The meeting may be held by phone or in person.

The JOBS Employment Contractor is responsible to review the individual's good cause claim, if presented, to determine if good cause existed for the failure or refusal to participate. This review must be done using the decision-making principles described in Section 75-02-01.2-12 of the North Dakota Administrative Code.

After reviewing the Good Cause claim, the JOBS Employment Contractor has the following options for action:

- a. When good cause for non-cooperation is determined to exist, based on the evidence provided, a sanction is not recommended and the individual is re-engaged in work activities under the JOBS Program. The JOBS Employment Contractor notifies the TANF Eligibility Worker that the individual had 'good cause' and they continue to engage the client.
- b. When good cause for non-cooperation is not determined to exist, based on the evidence provided, the JOBS Employment Contractor shall recommend a sanction be imposed. (Refer to JOBS Sanction Policy below.)

1308
#2
3/14

Good Cause due to Medical Reasons

JOBS 'good cause' determination due to Medical reasons must be pursued through the State Medical Review Team (SMRT), who consists of a physician, Dr. Betting, and an RN, Mary Helmers. Either the eligibility worker or the Employment Contractor, may pursue a JOBS 'good cause' determination from the State Medical Review Team by completing and submitting SFN 451 "Eligibility Report on Disability/Incapacity" and attaching all supporting medical documentation to SFN 451. Fax this information to 328-1060. The State Medical Review Team will review SFN 451 and the supporting medical documentation and make an approval/denial determination based on that medical documentation. It is imperative that a JOBS 'good cause' denial is on file if DHS became involved in an appeal situation.

Note: The SMRT uses a 'Medical Model' when making determinations. Therefore, current medical reports, including medical reports and doctor notes from the individuals attending physician must be obtained and submitted with the SFN 451. The JOBS Medical Statement form developed by the Employment Contractor should not be sent to the SMRT, as this is used when developing modified plans, if one is warranted.

1. If the work eligible individual was denied by the Social Security Administration (SSA) for reason of "**capacity for substantial gainful activity**," then the State Medical Review Team will not review the case for a JOBS Good Cause Determination, as the 'denial' determination has already been made by Social Security Administration. In these cases, the work eligible individual will be required to participate in the JOBS program and will NOT be granted JOBS 'good cause' to temporarily excuse them from JOBS Program participation.
2. If the individual is denied by the Social Security Administration (SSA) for the reason of "**severe condition not expected to last 12 months**," then the State Medical Review Team will review the Eligibility Report on Disability/Incapacity and the attached medical documentation and make an approval/denial determination on the 'JOBS Good Cause Determination' request.

Until the SMRT makes an approval/denial determination on the JOBS 'good cause' request, the work eligible individual will remain a mandatory JOBS participant, required to meet the minimum number of hours for federal reporting purposes. However, if the medical documentation provided supports development of a 'modified' employability plan to allow for any medical limitations identified through the medical documentation, then based on those medical limitations, a 'modified' employability plan must be developed, written strictly around the work eligible individual's medical limitations (attend all appointments as recommended/scheduled, follow through and comply with all services recommended by the medical providers including taking all medications as prescribed, etc.).

Note: In most instances the medical documentation or statement from the physician indicates these individuals are capable of sitting/standing/walking for a specific length of time. In those cases, the modified employability plan will include work activities modified to comply with the limitations identified on the medical statement. These individuals on a 'modified' employability plan may still receive a transportation allowance to attend medical appointments or participate in work

1308
#2
3/14

activities. After review of the medical information, it's still unclear what the work eligible individual is capable of, contact the medical professional, explaining the JOBS program and what the work activities consist of (it's far beyond the perceived 'employment only' activity) and ask for further clarification as to what the individual is capable of doing.

Because these individuals with medical limitations will be on a 'modified' employability plan, they may not meet the minimum number of hours in approved work activities and as such, will have a negative effect on the state's overall work participation rate. However, they are certainly not to be left to 'languish' inactive in their homes. Many individuals with medical limitations and/or disabilities are capable of participating in productive work activities and the expectation of DHS is that the employment contractors explore these capabilities, rather than focusing on the medical limitations. In fact, the preamble to the Interim Final Rule encourages states to provide self-sufficiency opportunities to individuals with medical limitations and/or disabilities and to engage them in appropriate work activities such as specialized work experience sites that would provide and demonstrate the skills and experiences needed to obtain employment. Employment contractors must recognize that needed accommodations must be provided to these individuals, which can help these individuals reach their full potential. DHS expects the employment contractors to serve the entire caseload so that all recipients progress toward self-sufficiency.

If these work eligible individuals fail to comply with any aspect of the 'modified' employability plan (i.e., refusing to attend medical appointments, take prescribed meds, etc.), a good cause determination meeting must be scheduled and a JOBS sanction recommended if the work eligible individual fails to provide an acceptable reason for the non-compliance. All work eligible individuals involved in the JOBS program will be held accountable for failing to comply with the JOBS program. Medical limitations do not excuse these individuals from being held accountable for non-compliance.

Good Cause due to Domestic Violence

Based on NDCC 50-09-31, when domestic violence is identified as a potential employment or participation barrier, a referral must be made to a local domestic violence, sexual assault organization for comprehensive assessment, safety planning, and potential services. Documentation of the referral must be included in the casefile.

The TANF Final Rule identifies that states have a 'special reasonable cause provision' if they fall short of the work participation rate because they serve a large number of families dealing with domestic violence. ND has not had to request this 'special reasonable cause provision' to date, as ND has met the overall work participation rate requirement of 50% for FFY 2007 and FFY 2008. TANF Policy receives and monitors a listing of JOBS 'good cause' reasons granted to JOBS participants.

North Dakota does have an option where Eligibility Workers may waive JOBS program participation and other program requirements for victims of domestic violence as long as necessary to escape domestic violence. However, Eligibility Workers have been 'cautioned' in the use of this option (JOBS 'good cause') as these individuals continue to be included in the work participation rate during the JOBS 'good cause' period, having a negative effect on North Dakota's work participation rate. Granting good cause from

1308
#2
3/14

JOBS program participation due to domestic violence is accomplished through the automated computer system (Vision) by selecting 'Domestic Violence' as the good cause reason. Selection of the domestic violence good cause reason in the automated computer system temporarily excuses the work eligible individual from JOBS program participation for a specific length of time, predetermined by the Eligibility Worker/ Employment Contractor. Again, it does not exclude that individual from being included in the work participation rate for federal reporting purposes, which results in those individuals having a negative effect on North Dakota's work participation rate.

Instead of granting 'good cause' from JOBS program participation due to domestic violence, eligibility staff are encouraged to refer victims of domestic violence to the JOBS program, if warranted, as domestic violence services meets the definition of job search and job readiness assistance because they accomplish the very goal of that work component...to help individuals go to work. Any domestic violence service that directly relates to preparing for employment could be considered a job readiness activity.

1308
#2
3/14

JOBS Sanction - Non-Compliance

The JOBS Employment Contractor shall send a recommendation for sanction to the Eligibility Worker when:

1. Good Cause Does not Exist

A preliminary determination has been made that good cause does not exist because the JOBS Employment Contractor determined the individual did not participate in the good cause determination process, or the individual participated but did not show good cause for the failure or refusal to participate, written documentation will be provided to the TANF Eligibility Worker recommending a sanction be imposed.

NOTE: A detailed chronological history of the individual's failure or refusal to participate, the individual's good cause reason (if a good cause reason was provided), and any actions taken by the JOBS Employment Contractor must be included.

The JOBS Employment Contractor is responsible to provide the individual with a written summary of the results of the good cause determination. This summary must review the outcome of the good cause determination process and at minimum should address:

1. The date, and a record of any action taken by the individual to show good cause, including any good cause reasons presented;
2. Whether or not good cause for non-participation was shown;
3. Continued requirements for JOBS program participation including any modifications to the Employability Plan; and
4. Whether or not a sanction will be recommended along with the potential consequences to the individual if a sanction is imposed.

NOTE: When a participant fails to or is unable to provide verification of their hours of participation, if the Employment Contractor is able to obtain the verification, the Employment Contractor shall obtain the verification and the 'good cause' determination process cannot be initiated. However, if the Employment Contractor is unable to obtain the verification of the participants hours, the 'good cause' determination process must be initiated which may result in a recommendation for sanction.

2. Job Quit or Refusal of Employment

A JOBS participant, who quits a job or refuses a bona fide job offer without good cause, is subject to a sanction for non-cooperation in the JOBS Program.

Effective March 1, 2010, JOBS Employment Contractors were required to pursue the sanction process for ongoing JOBS participants who quit a job or refused employment. This means a job quit or refusal of employment by a JOBS participant becomes known, the 'good cause' process must be initiated and if a determination that 'good cause' does not exist, a recommendation for sanction must be sent to the TANF Eligibility Worker.

1308
#2
3/14

Effective June 1, 2010, the requirement was expanded so that JOBS Employment Contractors will make a good cause determination of a job quit or refusal of employment for TANF applicants who quit a job or refuse employment after the TANF Application Date. The JOBS Referral has been enhanced to display the TANF Application Date.

Note: The TANF Eligibility Worker is required to make the job quit or refusal of employment determination for periods prior to or on the TANF Application date.

The following process must be adhered to:

a. Upon receipt of a JOBS Referral, the JOBS Employment Contractor must determine if the referral is for a new applicant or an individual in an ongoing case whose 'good cause' or 'exemption period' is ending. (This can be determined based on the TANF Application Date displayed on the JOBS Referral form.)

(1) If the referral is for a TANF applicant (to meet Up-front Eligibility Requirements and/or complete a Proof of Performance) AND the job quit or refusal of employment occurred after the TANF Application Date (thru the Up-front Eligibility or Proof of Performance Period), the JOBS Employment Contractor must determine if 'good cause' exists for the job quit or refusal of employment.

(a) If 'good cause' does exist, the TANF Eligibility Worker must be notified that the 'good cause claim' was approved and the JOBS participant must continue to follow JOBS requirements.

(b) If 'good cause' does not exist, the individual is deemed to have failed the Upfront and/or Proof of Performance requirements and the referral must be returned to the TANF Eligibility Worker. The TANF Eligibility Worker will deny the TANF application and the individual will need to serve a 30 day disqualification period, beginning the day following the day the job quit or refusal of employment occurred.

Note: Should the individual reapply for TANF within 30 days of the job quit or refusal of employment, since a new application has been submitted and the Job Quit occurred prior to the new application date, the TANF Eligibility would make the determination.

(2) If the referral is for an individual in an ongoing case whose 'good cause' or 'exemption period' is ending, and a job quit or refusal of employment occurred:

(a) Prior to the 'good cause' or 'exemption period' end date, the JOBS Employment Contractor does not take any action as job quit or refusal of employment does not apply during 'good cause' or 'exempt' periods.

1308
#2
3/14

- (b) After the 'good cause' or 'exemption period' end date, the 'good cause' process must be initiated.
 - i. If 'good cause' exist, the TANF Eligibility Worker must be notified that the 'good cause' claim was approved and the JOBS participant must continue to follow JOBS requirements.
 - ii. If 'good cause' does not exist, a recommendation for sanction must be sent to the TANF Eligibility Worker.

- (3) If the referral is for an individual in an ongoing case who must complete a Proof of Performance, and a job quit or refusal of employment occurred:
 - (a) If 'good cause' does exist, the TANF Eligibility Worker must be notified that the 'good cause claim' was approved and the JOBS participant must continue to follow JOBS requirements.

 - (b) If 'good cause' does not exist, the individual is deemed to have failed the Proof of Performance requirements and the TANF Eligibility Worker must be informed. The case will progress to closure.

Note #1: For (2) and (3) above, the only way to cure the sanction and avoid the case from progressing to case closure is if the individual finds a job that is comparable to the job quit or refused.

Note #2: If the individual does not cure the sanction and the case progresses to close, the individual will be required to serve the one (1) month of ineligibility. Upon reapplication after the one (1) month of ineligibility, the individual will need to complete a Proof of Performance, but may not be required to find a job that is comparable to the job quit or refused in order to regain eligibility. The Employment Contractor will be responsible to determine the appropriate activity.

Once a JOBS sanction is imposed, it is effective for the sanction penalty month. If the sanction is not cured, the case will progress to close and result in a month of ineligibility.

Good Cause Reasons for Voluntarily Quitting a Job

Examples of 'good cause' reasons for voluntarily quitting a job can be found in the TANF Policy Manual at 400-19-45-75-10.

Good Cause Reasons for Refusing Employment

Examples of 'good cause reasons for refusing employment can be found in the TANF Policy Manual at 400-19-45-75-15.

1308
#2
3/14

Curing JOBS Sanctions

A JOBS sanction is cured only when the responsible individual demonstrates, through a Proof of Performance (POP) to the satisfaction of the JOBS Employment Contractor, that the failure to cooperate or participate has been corrected, as required. To cure a sanction and avoid case closure based on Sanction Progression, a sanctioned individual must successfully complete a POP with a cure date equal to the sanction penalty month.

To have a cure date equal to the sanction penalty month a sanctioned individual must:

1. Begin and successfully complete a POP prior to the Sanction Penalty Month; or
2. Begin a POP prior to and successfully complete it within the Sanction penalty month; or
3. Begin and successfully complete a POP within the Sanction Penalty Month; or
4. Begin a POP in the sanction penalty month and successfully complete it in the next month.

If the sanctioned individual cures the sanction during the sanction penalty month, the case will not close at the end of the sanction penalty month, but the needs of the sanctioned individual will not be met during the sanction penalty month.

If the sanctioned individual does not cure the sanction during the sanction penalty month, the case will close at the end of the sanction penalty month.

Proof of Performance (POP)

A Proof of Performance (POP) is a specific period of time, of not less than 10 and not more than 30 days, during which a sanctioned individual can cure their JOBS or Tribal NEW sanction by demonstrating successful participation in the program for the defined period. It is the responsibility of the sanctioned individual to contact the JOBS Employment Contractor or Tribal NEW Coordinator to begin the process of curing the sanction.

A sanctioned individual is required to complete a POP Period. To complete a POP period, the individual must comply with the requirements of their JOBS Employment Plan/Tribal NEW Service Plan for the entire period. The length of the POP period is determined based on the number of sanctions that have been imposed against that individual. TANF policy recommends POP periods of:

- A minimum of Ten (10) calendar days for the first JOBS sanction; and
- Fifteen (15) calendar days for all subsequent JOBS sanctions.

Note: In situations where an individual has been sanctioned frequently, the JOBS Employment Contractor can determine the length of the POP period to be more than fifteen (15) calendar days, but cannot exceed thirty (30) days.

The expectations for the POP as well as its anticipated end-date shall be outlined on the individual's JOBS Employability Plan (EP) or Tribal NEW Service Plan. When appropriate, information from the previous Plan should be included in the new Plan. A copy of the Plan shall be provided to the participant as well as to the TANF Eligibility Worker.

1308
#2
3/14

When an individual is participating in a Proof of Performance (POP) Period, situations may arise where the individual has 'good cause' for not participating for a day. In this situation, the missed day can be added on to the end of the POP period, which of course will extend the POP period by a day.

A POP is considered "started" the day an individual meets with the JOBS Employment Contractor or Tribal NEW Coordinator, in person or by phone, to create the Plan and outline the expectations for the POP.

- For new applications, only one Proof of Performance may be attempted.
Note: A new referral is required since the case was previously closed.
 - A Proof of Performance is considered "started" the day an individual meets with the JOBS Employment Contractor, in person or by phone, to complete the Employability Plan and outline the expectations for the Proof of Performance.
 - If a sanctioned individual fails to comply or does not complete all requirements outlined in the Plan, the POP is considered to be incomplete, the application must be denied, and the individual must reapply if they wish to receive future benefits.
- For ongoing cases, an individual can attempt to complete more than one Proof of Performance. In order to avoid the Month of Ineligibility, a POP must begin no later than the last day of the Sanction Penalty Month and be successfully completed.
Note: A new referral will not be created in the Sanction Penalty Month as the case is still open and the current referral remains in effect.
 - A Proof of Performance is considered "started" the day an individual meets with the JOBS Employment Contractor, in person or by phone, to complete the Employability Plan. The start date of a successfully completed Proof of Performance is used as the cure date.
 - For each Proof of Performance attempt, if an individual fails or refuses to comply or does not complete all requirements outlined in the Plan, the POP is considered to be incomplete. The individual must begin and successfully complete a new POP in order to cure the sanction.
Note: For each new POP, a new Employability Plan must be developed.

Example: An individual is sanctioned effective January, which is the Sanction Penalty Month. The individual meets with the JOBS Employment Contractor or Tribal NEW Coordinator on January 5th to create a Plan which outlines the expectations for the POP. The individual complies with the requirements listed in the Plan for five days and then fails or refuses to continue. The POP is considered to be incomplete. The case will close, effective January 31, for 'Sanction Progression'.

1308
#2
3/14

On January 15th, the sanctioned individual contacts the JOBS Employment Contractor or Tribal NEW Coordinator to begin a new POP. A new Plan is developed. The individual complies with the requirements of the Plan and the POP is considered successfully completed. The household will remain eligible and the case will not progress to close.

Verifying, Reporting and Projecting Hours of Participation

Verification of Work Activities Actual Hours of Participation

Actual hours of participation in any work activity can be accomplished by the use of timesheets, or in the case of paid employment, by copies of paystubs. Verification must be dated (mmddyy), documented, and included in the participants casefile. (See information under the individual activities for specific requirements.)

Note #1: When timesheets are used, it is imperative that the timesheet include the name of the participant, and is signed by the person in charge who is verifying participation (instructor, supervisor, employer, etc.).

Note #2: Allowable excused and holiday hours are counted when determining if an individual has met their Work Participation Requirements.

When a participant fails to or is unable to provide verification of their hours of participation, if the Employment Contractor is able to obtain the verification, the Employment Contractor shall obtain the verification and the 'good cause' determination process cannot be initiated. However, if the Employment Contractor is unable to obtain the verification of the participants hours, the 'good cause' determination process must be initiated which may result in a recommendation for sanction.

The following section defines what the verification of actual hours of participations requirements are for each individual core and non-core work activity:

Core Work Activities

1. Unsubsidized Employment - Including Self-Employment

When an individual works for wages or a combination of wages and tips, the actual number of hours worked are used to determine if she or he meets the minimum work requirement.

Note: Paid holidays, paid leave and paid overtime hours are counted when determining the individuals hours of participation.

To determine the number of countable work hours for an individual who is self-employed, the JOBS Employment Contractor must first subtract the individual's monthly business expenses from her or his monthly gross income to determine the monthly net income. The monthly net income is then divided by the current federal minimum wage. To arrive at the weekly hours, divide the monthly hours by 4.33.

- If, after the JOBS Employment Contractor has calculated the number of countable hours of self-employment, the individual's hours are less than the minimum required work hours, involvement in one or more additional work activities may be required.

Hours of participation must be verified. Types of verification may include, but are not limited to pay-stubs, employer reports, other employer-issued documentation or business records. In the case of self-employment, copies of business records of gross income and expenses.

1308
#2
3/14

Note: Travel time is only allowed if the employer pays for the time an individual travels.

If hours of participation are being projected, the information used to project the hours must be verified and the computation of the projected hours must be documented.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

2. Subsidized Employment - Public or Private

Hours of participation must be verified. Types of verification may include, but are not limited to pay-stubs, employer reports or other employer-issued documentation.

If hours of participation are being projected, the information used to project the hours must be verified and the computation of the projected hours must be documented.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

3. Work Experience

Hours of participation must be verified using a JOBS time sheet, which is completed and signed by the supervisor and submitted to the JOBS Employment Contractor.

If a portion of substance abuse treatment, mental health treatment or rehabilitation service meets a common-sense definition of work, then the hours associated with that work activity may count under the appropriate work category, such as work experience.

Example: A State may place an individual who is otherwise able to work, but for the need to reinforce substance abuse treatment, into a special program in which a single provider coordinates work and treatment in a halfway house or treatment environment. As part of that treatment program, the individual also fulfills assigned supervised, documented work responsibilities for the benefit of all the residents, such as preparing meals, housecleaning, or scheduling group activities. In that case, the State may report the hours the individual was in the work portion of the program as Work Experience. Otherwise, the time the individual spent in a substance abuse or mental health treatment program or rehabilitation activities component does not count in the Work Experience category.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

4. On-The-Job Training

The JOBS Employment Contractor will monitor the participant's involvement in OJT on a monthly basis through on-site visits, phone contacts and monthly evaluation reports submitted by the employer.

1308
#2
3/14

Hours of participation must be verified. Types of verification may include, but are not limited to pay-stubs, employer reports, other employer-issued documentation or business records.

If hours of participation are being projected, the information used to project the hours must be verified and the computation of the projected hours must be documented.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddy) and included in the participants case file.

5. Job Search and Job Readiness

Based on the Federal Regulations, only actual hours spent in Job Search (and Job Readiness) can be counted. We cannot assume each Job Search contact takes a certain amount of time. We must have the participant record the actual amount of time spent on each Job Search contact.

Participants can complete Job Search in three ways, in person, by phone or online. Based on Federal Regulations and the TANF Work Verification Plan, the contact information is based on the method of contact made, in person, by phone or online.

- If the contact is by telephone, the following information needs to be captured:
 - The name of the business;
 - The person (first and last name, if possible) who the participant spoke with;
 - The phone number of the person contacted;
 - The date of the contact;
 - The start time of the contact;
 - The end time of the contact; and
 - The position interested in.
- If the contact was in person, the following information needs to be captured:
 - The name of the business;
 - The person (first and last name, if possible) who the participant spoke with;
 - The phone number of the person contacted;
 - The date of the contact;
 - The start time of the contact;
 - The end time of the contact; and
 - The position interested in.
- If the contact was online (internet), the following information needs to be captured:
 - The name of the business;
 - The contact person (first and last name, if available. If none listed, must indicate 'none listed' on the timesheet.)
 - The phone number of the person or business contacted;
 - The date of the contact;
 - The start time of the contact;

1308
#2
3/14

- The end time of the contact; and
- The position interested in.
 - (For an online contact, it is not required, but it may help to have the participant print the webpage of the business they are contacting.)

Note: The contact information needs to be sufficient so that we gather enough information to be able to make follow-up contacts to verify. The timesheets are reviewed by the Employment Contractor and the Employment Contractor should follow-up with the employers for a reasonable number of contacts, to verify that the participant actually made the contacts. These follow-up contacts must be documented.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

Travel Time

Time spent traveling between multiple interviews may be counted for the Job Search/Job Readiness Activity. This is the only activity in which time spent traveling can be counted.

Actual Hours of participation must be verified. Each participant must maintain a daily record (JOBS Time Sheet) of all actual employment contacts. The timesheet contains information on potential employers visited.

Job Search/Job Readiness Time Limit

Effective October 1, 2008, the Job Search/Job Readiness time-limit changed as follows:

'The six-week limit is 120 hours in the preceding 12-month period for a single parent with a child under six and 180 hours for all other work-eligible individuals. No more than four consecutive weeks (where a week is seven consecutive days, triggered by reporting any hours) are reported for a participant involvement in job search or job readiness activities.'

Hours in weeks (for this section a week means 5 days) where an individual participates for 3 or 4 days will be averaged and will be applied to each day the individual did not participate, up to 5 days. The averaged and actual hours will determine the number of hours the individual participated. The week will also be counted as a week of participation in the activity.

Example: If an individual participates an average of 5 hours per day in job search for three days in a week, one can assume that such individual participated the same 5 hours the remaining two days of that week and thus, one could assume and count total participation of 25 hours in this activity for that week. In this example, this would also use up 25 hours of the individual's hourly limitation under the 120/180 hours for job search and job readiness assistance.

1308
#2
3/14

Contractors should maintain a record of an individual's participation in Job Search/Job Readiness, and all hours of participation should be recorded in the client's case file and documented that they could not be reported as client had met the maximum allowed.

- The state is not able to program our system to not report hours for a fifth week, since contractors report monthly hours instead of weekly hours. Therefore, the contractors need to monitor and report appropriately.
- The state was not able to program the 12-month rolling calendar into the reporting database to track the hours in the preceding 12 months. Therefore, the contractors will need to manually track monthly hours to determine the number of hours used in the preceding 12 month period and report, or not report in excess of the 120 hours as appropriate. If the hours are not reported, all hours of participation should be recorded in the client's casefile and documented that they could not be reported as client had met the maximum allowed.

Based on the information we initially submit for Federal reporting, the Federal Government determines whether we qualify as a "needy state". (There are two ways for a state to qualify as a "needy state," one based on the state's unemployment rate, the other based on increases in the SNAP caseload.) If a state qualifies as a "needy state", the state is allowed to count additional hours/weeks of Job Search and Job Readiness, after the fact.

Note: Contractors are notified of these additional weeks of Job Search/Job Readiness via e-mail.

Example:

Good Morning

Under Section 407(c)(2) of the Social Security Act and 45 CFR 261.34, an individual's participation in job search and job readiness assistance can count for a maximum of six weeks in a fiscal year (no more than four consecutive weeks). This can be extended to 12 weeks in a fiscal year if a State has an unemployment rate at least 50 percent greater than the unemployment rate of the United States or if the State meets the definition of a "needy State" under the Contingency Fund provisions of the law. There are two ways for a State to qualify as a "needy State," one based on its unemployment rate, the other based on increases in its Food Stamp caseload. (See section 403(b)(5) of the Act.) Here is a general description of the two triggers:

- Unemployment Trigger - the average unemployment rate for the most recent 3-month period is at least 6.5% and at least 110% of the State rate for the corresponding 3-month period in either of the two preceding calendar years.
- Food Stamp Trigger (as determined by the Secretary of Agriculture) - the monthly average number of participants for the most recent 3-month period is at least 110% of the State's monthly average caseload for FY 1994 or FY 1995, whichever is less, had the immigrant and Food Stamp provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) been in effect in those years.

The tables below display the official list of States that have qualified for counting up to six additional weeks of job search and job readiness assistance by month.

States Qualifying for Counting Up To Six Additional Weeks of Job Search and Job Readiness

FY 2008

	Oct-07	Nov-07	Dec-07	Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08	Sep-08
North Dakota	C	C	C	C	C	C	C	C	C	C	C	C

EXAMPLE

Employment Contractors will need to notify us and resubmit the hours and clients that have the additional hours under Job Search and Job Readiness, for the months we qualified for the six additional hours/weeks. The employment contractor needs to narrate why the additional hours are allowed and include the email sent from the state office.

1308
#2
3/14

6. Community Service

Hours can only be deemed to an individual participating in Community Service if the individual has participated in the total required hours as determined, and the required hours, when divided by 4.33, do not exceed 20 average weekly hours (e.g. Individual receives \$328 in TANF and \$200 in SNAP benefits. When divided by 7.25 (minimum wage), the individual is required to participate 72.82 hours in Community Service. The individual does participate 72.82 hours or when divided by 4.33, 16.81 or 17 average weekly hours. Since the individual participated the total required hours, 3 hours can be deemed to this individual (Maximum of 20 (which is the "core" hour participation requirement) average weekly hours minus the 17 average weekly hours the individual participated).

Hours can only be deemed to an individual participating in Community Service up to 20 average weekly hours, which is the maximum number of average weekly hours an individual must participate in a CORE work activity. (e.g. An individual is required to participate in Community Service 99 hours. 99 divided by 4.33 equals 22.86 average weekly hours. Since 22.86 average weekly hours exceeds 20 (which is the "core" hour participation requirement), no hours can be deemed to this individual.)

Hours of participation must be verified. The site supervisor will maintain, jointly with the participant, a daily record of hours worked using a JOBS Time Sheet. The site supervisor must sign the time sheet prior to it being submitted to the Employment Contractor.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

7. Vocational Education Training

a. Classes that are based on credit hours:

- Hours of participation are based on one hour per credit hour that the course represents.
 - Actual hours of participation will be verified based on attendance records, signed daily record (Community Options JOBS Participant Vocational Education Time Sheet), activity logs, or letter/email from school advisor or instructors.

For most colleges, the number of credit hours a class is assigned usually represents the number of hours the student is scheduled to attend a class each week. However, in the situation of a Voc Ed college like in Wahpeton, if a class is assigned a certain number of credit hours and the class is only for a 2 month period but in order to complete the class the individual must attend class for more than 3 hours per week, then the actual hours of attendance should be used and time sheets of actual hours of attendance must be obtained and in the casefile.

1308
#2
3/4

Example: An individual is attending two (2)-3 credit hour classes and will complete those classes during the months of October and November. In order to complete the classes, instead of attending school 6 hours per week (3 hours per week per class), the individual attends each class for 1 hour per day for 5 days per week.

In this situation, instead of only being allowed to count 6 hours of school attendance per week based on the credit hours, timesheets should be obtained for actual hours of attendance which will verify the individual actually attended each class 1 hour per day for 5 days. This would allow 10 hours to be counted, plus another 10 hours for homework, which would be a total of 20 hours per week.

- b. Classes that are not based on credit hours (Summer School, Block Scheduling, Hair School, etc):
- Actual hours of participation must be verified.
 - Allowable hours include hours spent in class, clinical requirements, lab work, unpaid internships, required volunteer hours as part of the course of study, required field trips, observing surgical procedures, or job shadowing.
 - Actual hours of participation will be verified based on attendance records, signed daily record (time sheet), activity logs, or letter/email from school advisor or instructors.
 - Verification of the hours of participation must be obtained at a minimum of every two weeks. All verifications should be dated and included in the participants JOBS case file.
 - The JOBS Time Sheet serves as supporting documentation that the hours of participation were actually performed for the hours claimed in Vocational Educational training.
- c. Distance learning/on-line classes
- The number of hours that can be counted will be based on the number of credit hours the class represents.
 - Verification of distance learning/on-line class attendance can be a signed daily record (JOBS Time Sheet), signed activity logs (including log-in/log-out time) or a letter from school advisor or instructors.

NOTE: Signed means by the instructor or a designee of the instructor.
- d. Supervised/Unsupervised study time
- Unsupervised homework countable hours are limited to one hour for every hour spent in class unless the class is based on credit hours, and then the unsupervised homework time will be based on the number of credit hours the class represents. Total supervised and unsupervised homework time counted for participation cannot exceed the hours required or advised by a particular educational program.

1308
#2
3/14

- For individuals participating in distance learning/on-line classes, unsupervised homework time will be allowed equal to the number of credit hours the class represents.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

8. Providing Child Care Services to a Participant Involved in a Community Service Program

Hours of participation must be verified. Countable hours in this activity are always paired with the activity of another TANF recipient in community service. The hours of community service documented by the client in community service will provide the basis for verification of child care provided along with the completed JOBS time sheet.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

Non-Core Work Activities

Three of the twelve countable work activities which participation cannot count toward meeting the first 20 hours of a 30-hour average weekly requirement. However, participation in these activities can count towards meeting the required hours above the first 20. Non-core activities may not count as core activities.

1. Job Skills Training Directly Related to Employment

Hours of participation must be verified. Actual hours of participation will be based on attendance records, signed daily records (JOBS Time Sheet), signed activity logs, or a letter from school advisor or instructors.

For distance learning/on-line classes, the number of hours that can be counted will be based on the number of credit hours the class represents. Verification of distance learning/on-line class attendance can be a signed daily record (JOBS Time Sheet), signed activity logs (including log-in/log-out time) or a letter from school advisor or instructors.

NOTE: Signed means by the instructor or a designee of the instructor.

Verification of unsupervised homework time will be based on hours of class time unless the class is based on credit hours, and then the unsupervised homework time will be based on the number of credit hours the class represents. For individuals participating in distance learning/on-line classes, unsupervised homework time will be allowed equal to the number of credit hours the class represents.

1308
#2
3/14

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

2. Education Directly Related to Employment

Hours of participation must be verified. Actual hours of participation will be based on attendance records, signed daily records (JOBS Time Sheet), signed activity logs, or a letter from school advisor or instructors.

When a JOBS participant, under the age of 20, is engaged in some other educational activity other than secondary school or GED, the individual's work activity should be classified as Education Directly Related to Employment.

When a JOBS participant, age 20 or older, is attending secondary school or is involved in a course of study leading to a GED, the individual's work activity should be classified as Education Directly Related to Employment when acquiring a GED is required as a prerequisite for employment by employers or occupations. If it is not a required prerequisite, then it is classified as 'Satisfactory Attendance at Secondary School or in a Course of Study Leading to a GED.

Note: Individuals age 20 or older must participate in a core work activity for an average of 20 hours per week, in addition to any non-core activities.

For distance learning/on-line classes, the number of hours that can be counted will be based on the number of credit hours the class represents. Verification of distance learning/on-line class attendance can be a signed daily record (JOBS Time Sheet), signed activity logs (including log-in/log-out time) or a letter from school advisor or instructors.

NOTE: Signed means by the instructor or a designee of the instructor.

Verification of unsupervised homework time will be based on hours of class time unless the class is based on credit hours, and then the unsupervised homework time will be based on the number of credit hours the class represents. For individuals participating in distance learning/on-line classes, unsupervised homework time will be allowed equal to the number of credit hours the class represents.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

3. Satisfactory Attendance in Secondary School or a Course of Study Leading to a GED

A JOBS participant, under the age of 20, is considered to meet the minimum work requirement if he or she:

- a. Maintains satisfactory attendance at a secondary school or its equivalent during the month; or
- b. Participates in other educational activities directly related to employment for an average of at least 20 hours per week during the month.

1308
#2
3/14

Hours of participation must be verified. Actual hours of participation will be based on attendance records, signed daily records (JOBS Time Sheet), signed activity logs, or a letter from school advisor or instructors.

Note: We will continue to enter an individual's 20 or 30 hour minimum work requirements as actual hours of participation, and count the individual as engaged in work when the individual attends secondary school or its equivalent and the individual is married or a single head of household under age 20.

Verification of unsupervised homework time will be based on hours of class time unless the class is based on credit hours, and then the unsupervised homework time will be based on the number of credit hours the class represents. For individuals participating in distance learning/on-line classes, unsupervised homework time will be allowed equal to the number of credit hours the class represents.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

When a JOBS participant, under the age of 20, is engaged in some other educational activity other than secondary school or GED, the individual's work activity should be classified as Education Directly Related to Employment.

When a JOBS participant, age 20 or older, is attending secondary school or is involved in a course of study leading to a GED, the individual's work activity should be classified as Education Directly Related to Employment when acquiring a GED is required as a prerequisite for employment by employers or occupations. If it is not a required prerequisite, then it is classified as 'Satisfactory Attendance at Secondary School or in a Course of Study Leading to a GED.

Note: Individuals age 20 or older must participate in a core work activity for an average of 20 hours per week, in addition to any non-core activities.

Other Work Activities (Contractor Work Activity Code '14')

The purpose of Activity Code '14', Other Work Activities is to report hours of participation that contractors do not wish to have counted against the durational limits. Activities that have durational limits are:

- Job Search/Job Readiness
- Vocational Education

Example: Due to a modified Employability Plan, an individual is required to participate in Job Search/Job Readiness three (3) hours per week and does meet this requirement. The three (3) hours per week will not meet this individuals minimum work requirements of 20 hours per week. If reported under the activity of Job Search/Job Readiness, the individual will not meet the Work Participation Rate and hours will count towards the durational limit for Job Search/Job Readiness. Therefore, the hours may be reported under the 'Other Work Activities' activity and thus the hours and week will not count towards the durational limit for Job Search/Job Readiness.

1308
#2
3/14

Since all hours must be reported, and there are times when we do not want hours counted against the durational limits, by reporting the hours under 'Other Work Activities', the hours:

- Provide information on the overall engagement levels of individuals, even though those hours do not contribute to the State achievement in the work participation rates
- Demonstrate the client is participating in some manner; and
- Demonstrate the attempts made to remediate the client's barriers (medical conditions, etc.)

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

Unsupervised Homework Hours

Allowable Unsupervised Homework Hours

Hours spent on homework can only be counted if an individual participates in a class activity.

- Supervised homework time and up to one (1) hour of unsupervised homework can be allowed for each hour spent in class.

Note: Total homework time counted for participation cannot exceed the hours required or advised by a particular educational program.

Verification of Unsupervised Homework Hours

Verification of unsupervised homework time will be based on hours of class time unless the class is based on credit hours, and then the unsupervised homework time will be based on the number of credit hours the class represents. For individuals participating in distance learning/on-line classes, unsupervised homework time will be allowed equal to the number of credit hours the class represents.

- Unsupervised homework countable hours are limited to one hour for every hour spent in class unless the class is based on credit hours, and then the unsupervised homework time will be based on the number of credit hours the class represents. Total supervised and unsupervised homework time counted for participation cannot exceed the hours required or advised by a particular educational program.
- For individuals participating in distance learning/on-line classes, unsupervised homework time will be allowed equal to the number of credit hours the class represents.

Verification of the hours of participation must be obtained at a minimum of every two (2) weeks. All verifications should be dated (mmddyy) and included in the participants case file.

Reporting of Hours of Participation

Counting Actual Hours of Participation for Employment

North Dakota will include or count an individual's actual hours of participation on a monthly basis.

When the Employment Contractor receives verification of hours for an employed individual and the verification spans multiple months, the following policy shall be used to determine the number of hours to count in each month:

1. If the participant can provide a break-down of the number of hours worked in each month, the Employment Contractor shall report those hours for the appropriate month.

Example: A participant submits their paystub for the pay period of March 28th thru April 10th and the paystub verifies the participant worked 47 hours. The participant informs and provides a break-down, to the Employment Contractor, that 18 hours were worked in March and 29 hours were worked in April. The Employment Contractor would report 18 hours for March participation and 29 hours for April participation.

2. If the participant cannot specify the number of hours in each month, count the number of days in each month and figure the percentage of hours that would be attributable to each month.

Example: A participant submits their paystub for the pay period of March 28th thru April 10th and the paystub verifies the participant worked 47 hours.

- There are 14 days in the pay period, 4 days in March and 10 days in April.
- To determine the percentage of the hours to count for March, divide 4 by 14 which equals .2857 or 29%.
- To determine the percentage of the hours to count for April, divide 10 by 14 which equals .7143 or 71%.

Once you have determine the percentage of hours to count for each month, multiply the total number of hours by the respective percentage:

- For March, multiply 47 hours by 29% which equals 13.63 hours or 14 hours of participation to count for March.
- For April, multiply 47 hours by 71% which equals 33.37 or 33 hours of participation for April.

If an employed individual receives a bonus, even though it is extra income, the individual did not actually participate in an activity to receive the bonus. Therefore, there are no countable hours as a result of the bonus income.

Hours for paid overtime, holidays, administrative, sick, or vacation time are counted as regular hours of employment for individuals participating in unsubsidized, subsidized and on-the-job training as the individual is being paid for the hours. When an individual is not paid for the hours, hours can only be allowed under the Excused Absence and Holiday Hours policy.

Excused Absence and Holiday Hours

Section II of the Work Verification Plan defines the allowance of excused absence and holiday hours as follows:

- 80 hours of excused absences in the preceding 12 month period, not to exceed 16 hours of non-holiday excused absences per month; and

1308
#2
3/14

- 10 designated holidays to include:
 - New Years Day
 - Martin Luther King Jr. Day
 - President's Day
 - Good Friday
 - Memorial Day
 - Independence Day
 - Labor Day
 - Veteran's Day
 - Thanksgiving Day
 - Christmas Day

Excused Hours

Eighty (80) hours of excused absences in a preceding 12 month period, not to exceed 16 hours per month, is computed by using a rolling 12 month period. The following example illustrates this:

Example: We are in the month of January 2011. The preceding 12 month period would be January 2010 to December 2010. Excused absences were allowed as follows:

- | | |
|------------------------|-------------------------|
| January 2010 – 8 hours | September 2010-16 hours |
| March 2010 – 16 hours | October 2010 – 16 hours |
| July 2010 – 16 hours | December 2010 – 8 hours |

80 hours of excused absences were allowed in the period of January 2010 to December 2010, therefore, in January 2011, you would not be able to allow any excused hours.

In the month of February 2011, the preceding 12 months are February 2010 thru January 2011. During that period we allowed 72 hours of excused absences. Therefore, in February, you would be able to allow up to 8 hours of excused absence hours.

In the month of March 2011, the preceding 12 months are March 2010 thru February 2011. During that period we allowed 80 hours of excused absences. Therefore, in March 2011, you would not be able to allow any excused hours.

In the month of April 2011, the preceding 12 months are April 2010 thru March 2011. During that period we allowed 64 hours of excused absences. Therefore, in April 2011, you would be able to allow up to 16 hours of excused absence hours.

Note: When an individual applies for TANF, their TANF case closes and they reapply, the months in the rolling calendar continue to be determined as if the case did not close.

Example: In a case, where an individual applies in January 2011, the case closes June 2011 but reopens September 2011, the rolling calendar months are September 2010 thru August 2011 and excused hours allowed

1308
#2
3/14

in the months the individual was previously eligible would still count toward the limit of 80 hours in the previous 12 months.

In order to count an excused absence as actual hours of participation, the individual must have been scheduled to participate in an allowable work activity for the period of absence that is reported. Therefore, the individual must have been scheduled to participate in an allowable unpaid work activity and became unable to participate due to illness, another appointment, etc., in order for hours to be reported as 'excused absences'.

The number of hours allowed as excused hours would equal the hours the individual would have participated in the work activity as scheduled.

Example: An individual is scheduled to participate in Work Experience for 5 hours each day. The individual is unable to participate one day due to illness. Five excused absence (5) hours could be allowed.

Holiday Hours

In order to count holiday hours for an individual, the individual must be participating in an unpaid allowable work activity.

The number of hours allowed for a holiday is 8 hours.

Example: An individual is attending Voc Ed as their allowable activity. The individual attends classes for 2 hours on Monday, Wednesday and Friday and 3 hours on Tuesday and Thursday. Labor Day is a holiday that always falls on Monday. For the week of Labor Day, you count 8 holiday hours for Monday and for the remainder of the week you would count Voc Ed hours of 3 hours for Tuesday, 2 hours for Wednesday, 3 hours for Thursday and 2 hours for Friday plus up to 10 hours of homework time.

Counting Hours for Individuals in Receipt of Workforce Safety and Insurance (WSI) Payments

When an individual is in receipt of WSI payments and the payments represent lost wages, the amount of the payment that represents the lost wages can be counted as paid employment. The monthly payment would be divided by the minimum wage to determine the total number of hours of participation for the month. The total number of hours of participation for the month is then divided by 4.33 to determine the countable average weekly hours of participation in paid employment.

Note: The portion of the WSI payment that represents reimbursement for medical expenses cannot be counted as paid employment.

Reporting of Hours for month of TANF Application

Reporting hours of participation for TANF Applications shall begin the month in which the case is authorized:

- If a client applies for TANF on July 15th and the case is authorized on July 25th, the case would be reported as an open case (included in work participation) for July (paid month).

1308
#2
3/14

- If a client applies for TANF on July 15th and the case is authorized for July and August on August 10th, the case would be paid a benefit for July and August. The case would be reported as an open case (included in work participation) for August (paid month). The month of July is ignored for reporting purposes.

For the application month:

- Excused hours can be used during full weeks and will count. However, they should ONLY be used IF the reason the individual is not participating is truly absent. Excused leave CANNOT be used just to meet hours.
- Holiday hours can only be used if the holiday falls on a day after the date the TANF Application and the individual is participating in an unpaid allowable work activity.

How to Report Hours for the Month of Application

When the TANF Application is authorized in the same month as the Application Date, hours must be reported for the month of Application.

TANF Federal rules state: *'If a family receives assistance for only 'part of a month', we will count it as a month of participation if a work-eligible individual is engaged in work for the minimum average number of hours in each 'full week' that the family receives assistance in that month.'*

"Full Week" is defined as a week where benefits were paid for Sunday of the week, and the majority, (4 or more), of the days for that week fall within the month. The individual is considered to have received a 'full weeks' benefit if they received a benefit for Sunday of the week and the majority (4 or more) of the days fall within the month. If the majority (4 or more) of the days does not fall within the month, the week is ignored for this provision.

The only month in which a family receives assistance for 'part of the month' is the application month, as benefits are prorated from the date of application. Therefore, to identify the cases that received benefits for 'part of a month' so that the TANF Federal Rule above can be utilized, the report, 'Listing of JOBS Participants' includes fields to capture the TANF Application Date and TANF Authorization Date.

1. If the individual DID NOT engage in one or more work activities for the minimum average number of hours in each 'full week' that the family receives assistance in that month, report the hours the individual did participate.
2. If the individual DID engage in one or more work activities for the minimum average number of hours in each full week that the family receives assistance in that month:
 - Take the total hours for each of the full weeks the individual was engaged in work activities for at least the minimum average number of hours and divide by the number of weeks. The result is then multiplied by 4.33 to give you the total hours to report. (**Note:** If you report average hours per week, take the total hours and divide by 4.33 to determine the average weekly hours.)

Example #1: An Individual with a child under age 6 applies for TANF April 6th. The application is authorized and a referral to JOBS is made on April 16th.

1308
#2
3/14

The individual participates in a work activity 23 hours the week of April 19th and 20 hours the week of April 26th. (Even though the week of April 26th is not a full week, the majority of the days (more than 4) fall within the month of April.)

- The individual did not receive a benefit for April 5th, so the week of April 5th does not count as a 'full week'. The individual did receive a benefit for April 12th, 19th and 26th, so those three weeks would count as 'full weeks'.
- The individual did NOT engage in work for the minimum average number of hours in the full weeks that the family received assistance in the month, (which is 3); therefore, this policy cannot be applied. The hours the individual actually participated would be reported, which is 43 total hours or 9.93 or 10 average weekly hours.

Example #2: An Individual with a child under age 6 applies for TANF April 9th. The application is authorized and a referral to JOBS is completed on April 10th. The individual participates 23 hours the week of April 13th, 29 hours the week of April 20th, and 23 hours the week of April 27th.

- The individual did not receive a benefit for April 5th; the week of April 5th would not count as a 'full week'. The individual received a benefit for April 12th, 19th and 26th, so those three weeks would count as 'full weeks'.
- The individuals total hours for the three weeks, are 75. Divide 75 by 3 (# of 'full weeks') equals 25, which would be the average weekly hours you would report, if reporting average weekly hours. If reporting total monthly hours, multiply 25 by 4.33 which equals 108.25 or 108 total hours.

Example #3: An individual with a child over age 6 applies for TANF April 24th. The application is approved and a referral to JOBS is completed on April 27th. The individual participates 28 hours the week of April 27th.

- The individual did not receive a benefit for April 19th, that week would not count as a 'full week'. The individual did receive a benefit for the week of the 26th, so only one week counts as a 'full week'.
- Since the individual did participate for the minimum average number of hours in the full weeks that the family received assistance in the month, which is 1 week, 28 average weekly hours would be reported for April, if reporting average weekly hours. If reporting total monthly hours, multiply 28 by 4.33 which equals 121.24 or 121 total hours.

April 2009						
Su	M	Tu	W	Th	F	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

1308
#2
3/14

Example #4: An individual with a child over age 6 applies for TANF April 17th. A referral to JOBS is completed on April 23rd. The April application is authorized on May 5th, for the months of April and May.

- Since the application was authorized in May, hours for April do not need to be reported and the first month in which the Employment Contractor must report hours is for May.
- Since May is not the Application Month, this policy does not apply and the individual must meet the Work Participation requirements for the entire month of May.

Example #5: An individual with a child over age 6 applied for TANF March 19th. The application is approved and a referral to JOBS is completed on March 23rd. The individual participated 37 hours the week of March 22nd and 28 hours the week of March 29th.

- The individual did not receive a benefit for March 1st, 8th or 15th so those three weeks do not count as 'full weeks'. The individual did receive a benefit for March 22nd and 29th, but the week of March 29th is ignored as the majority of the days (4 or more) do not fall within March, so only one week counts as a 'full week', the week of March 22nd.
- Since the individual did participate for the minimum average number of hours for the one full week of March 22nd that the family received assistance in the month, 37 average weekly hours would be reported for March, if reporting average weekly hours. If reporting total monthly hours, multiply 37 by 4.33 which equals 160.21 or 160 total hours.

March 2009						
Su	M	Tu	W	Th	F	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Reporting of Hours for Ongoing Cases

Reporting hours of participation for ongoing cases begins the 1st day of each month.

Example #1: An ongoing TANF case where a work eligible individual had been granted a 'good cause' reason which temporarily excuses him/her from JOBS program participation. The 'good cause' ended 10-10-2008. A new referral was created on 10-15-2008. The federal reporting requirement start date is still 10-01-2008. In this scenario, if the work eligible individual is referred on 10-15-2008 and attends the orientation appointment on 10-20-2008, the Employment Contractor should attempt to gather countable hours back to 10-01-2008 to assist in meeting the work participation rate for 10/2008, especially if the work eligible individual had countable/verifiable hours from 10-01-2008 thru 10-20-2008 which could be tied to

1308
#2
3/14

one of the federally approved work activities, such as Voc Ed or Unsubsidized Employment.

Reporting Hours for Exempt Volunteers

When an exempt volunteer participates in the JOBS Program and has hours to report, those hours should be reported. When the hours are received and the Federal report is run, programming is in place to determine if the individual met the minimum hours required.

- If the individual does meet the minimum hours required, the individual will count and help meet the states WPR. Also, if the individual is a caretaker of a newborn, the birth month would not count towards the individuals 12 month lifetime limit exemption due to being a caretaker of a newborn.
- If the individual does NOT meet the minimum hours required, the individual is reported as an exempt individual and the month counts towards their 12 month lifetime exemption due to being a caretaker of a newborn.

1308
#2
3/14

Projecting of Hours for Federal Reporting

Activities in which hours can be projected are:

- Unsubsidized Employment – Regular and Self-employment
- Subsidized Private Employment
- Subsidized Public Employment
- On-the-Job Training

North Dakota can project a work eligible individual's actual hours of participation in the activities listed above, for six months. The method of projecting hours is defined below.

Unsubsidized Employment (excluding Self-Employment which is defined below), Subsidized Private and Public Employment, and On-the-Job Training

Hours can be projected for a work eligible individual's actual hours of participation in Unsubsidized Employment (excluding self-employment) for six months. In order to project hours of participation, the Employment Contractor must secure verification of a full month's income. There are two methods which can be used to project the average weekly hours to be reported during the six-month projection period:

1. The information obtained from TANF eligibility workers regarding an individual's total actual hours of work; or
2. The information obtained by the Employment Contractor verifying an individual's total actual hours worked.

Determining the Number of Hours to Project: To determine the number of hours to project, divide the total monthly hours obtained under #1 or #2 above, by 4.33 to determine the average weekly hours to be reported during a six-month projection period.

Example A: A participant begins employment on March 24th. The first full month of employment would be April. In May, the Employment Contractor secures verification of the April hours. Divide the April hours by 4.33 and the result will be the number of hours that can be projected beginning June thru November.

Decrease in Hours from the Projected Hours of Participation: Once hours are projected, if the Employment Contractor becomes aware of a decrease in an individual's actual hours of work from the total projected actual hours being reported, the projected hours amount for that individual shall not be used beyond the end of the month in which the decrease in actual hours of work occurred.

Example B: Using the above Example A, in August when verifying July hours, the Employment Contractor determines the hours have decreased. The projection of hours based on April's information must end after July (when reporting August hours).

Increase in Hours from Projected Hours of Participation: Once hours are projected, if the Employment Contractor becomes aware of an increase in an individual's actual hours of work from the total projected actual hours being reported, the projected hours amount for that individual shall not be used beyond the end of the month, prior to the month in which the increase in actual hours of work occurred.

1308
#2
3/14

Example C: Using the above Example A, in August when verifying July hours, the Employment Contractor determines the hours have increased. The projection of hours based on April's information must end after June (when reporting July hours).

Re-projecting Hours: The Employment Contractor may make a new projection of hours after verification has been obtained of the individual's actual hours of employment for a full calendar month following the month the change occurred. The new projected hours can begin in the next reporting month

The JOBS Employment Contractor may re-project the individual's actual hours of work for six months when a work eligible individual's actual hours of work increase. The new six-month projection period shall begin in the month following the month in which the increase occurred.

Example D: Continuing with the above Example B, since the decrease in hours occurred in July, the Employment Contractor must wait until September, when verification of the August hours is secured. In September, the Employment Contractor will divide the August hours by 4.33 and the result will be the number of hours that can be projected beginning October thru March. For August and September, the Employment Contractor must use actual verified hours for each month.

Example E: Continuing with the above Example C, since the increase in hours occurred in July, the Employment Contractor must wait until September, when verification of the August hours is secured. In September, the Employment Contractor will divide the August hours by 4.33 and the result will be the number of hours that can be projected beginning November thru April. For July and August and September, the Employment Contractor must use actual verified hours for each month.

Self-Employment

On a case-by-case basis, hours can be projected for a self-employed individual. When projecting hours for a self-employed individual, the projection must be based on actual hours of work, and can be projected for up to six months. The following method shall be used to project the average weekly hours to be reported during the six-month projection period for self-employed individuals:

- The information obtained from TANF Eligibility Workers or by the Employment contractor verifying gross business income and expenses. In order to project hours of participation, the Employment Contractor must secure verification of a full month's business income and expenses.

Determining the Number of Hours to Project: Employment Contractors must use the gross income from business records and/or tax records and subtract allowable business expenses to arrive at the adjusted net income. Participation hours are then calculated by dividing the individual's adjusted net income by the current federal minimum wage, to arrive at the monthly hours. The monthly hours must then be divided by 4.33 to arrive at the average weekly hours to project.

1308
#2

3/14

Decreases and Increases in Hours from the Projected Hours of Participation and Re-projecting Hours for individuals who are self-employed follow the same criteria defined above.

1308
#2
3/14

Post-TANF Supportive Services

There are two supportive services that may be provided to former TANF or Transition Assistance recipients for up to six months following the closure of their TANF or Transition Assistance case, regardless of the closing reason:

- Post-TANF Transportation assistance;
- Post-TANF Discretionary assistance.

Either The TANF Eligibility Worker or JOBS Employment Contractor may authorize the use of Post-TANF Supportive Services.

Note: An individual who has an Intentional Program Violation imposed against them is not eligible to receive Post-TANF Supportive Services.

Individuals who the Employment Contractor approves the Post-TANF Supportive Service of Transportation should have the transportation approved by the Employment Contractor on the first working day of the month for the month. This will ensure the individual has sufficient transportation assistance to go to and from their employment.

Example: An individual requests and is eligible for Post-TANF Supportive Services beginning February. The Employment Contractor should approve and authorize the February Transportation Supportive Service on the first (1st) working day of February.

Information regarding these supportive services can be found in the TANF Policy Manual in Sections 400-19-155 thru 400-19-155-10.

1308
#2
3/14

Tribal NEW Participants Transportation Assistance

Transportation allowances can only be allowed for 'orientation, assessment, self-initiated educational activities, participation in an approved work activity or to attend appointments that must be kept as part of the Employability Plan.

Information regarding transportation assistance for Tribal NEW participants can be found in the TANF Policy Manual in Section 400-19-80-55.

1308
#2
3/14

Case Transfers

When a case transfers between State JOBS Employment Contractors, the entire JOBS casefile must be transferred to the new JOBS Employment Contractor. Since the sending Contractor will no longer have the information needed to report hours, the receiving Contractor will be responsible to report hours. The receiving Contractor must report the hours for the entire month.

When a case transfers between Tribal NEW and the State JOBS Employment Contractors, Eligibility Workers have been given the following procedure to follow:

- When creating a referral to the Tribal NEW program in ongoing TANF cases, the change is made in the current calendar month and not the future benefit month. Changing the JOBS Type field to 'Tribal' in the current calendar month allows the individual to be identified as a 'Tribal NEW' participant for federal reporting (and excluded), so these individuals no longer negatively affect the work participation rate requirement in the month of transition from 'State' JOBS program to the 'Tribal NEW' program.
- When an individual is no longer participating in the Tribal NEW program and needs to be referred back to the State JOBS program, the change is made in the future benefit month and not the current calendar month. This will still allow the 'State' JOBS referral to be created on the Referrals window in the automated computer system with a print date of the current calendar month, while allowing the current calendar month to remain a Tribal NEW month for federal reporting purposes (and excluded). Creating the 'State' JOBS referral in this manner also allows the employment contractor additional time to assist the 'State' JOBS participant in meeting the required number of hours in approved work activities by the actual start date of the identified 'State' JOBS month for federal reporting purposes.

Individuals enrolled in the Tribal NEW program will continue participation with the Tribal NEW Program during the summer and school breaks, if the individual will resume participation after the summer and school breaks end.

Example #1: Individual is participating in the Tribal NEW Program and school ends in May. The individual plans to return to school in August, after the summer break. The individual will remain in the Tribal NEW Program during the summer break.

Example #2: Individual is participating in the Tribal NEW Program and graduates in May. Since the individual graduated and will not be returning to school in the fall, the individual will be referred to the State JOBS Program on June 1.

1308
#2
3/14

Audit/Sampling of Cases

Each month, a listing of cases obtained through a random sample is created and sent to the Auditor for each Employment Contractor. The listing includes the information the Employment Contractor reported to the state regarding the individuals activity and hours of participation. The Auditor reviews the cases to ensure the information reported to the Department is correct and verification is in the Employment Contractors casefile. The findings are then submitted to the Department.

Upon receipt of the findings, a Department representative reviews the findings and if information reported to the Department was incorrect, or verification is not included in the Employment Contractors casefile, the Department sends notification to the Employment Contractor requesting:

1. The Employment Contractor obtain the verifications and place them in the casefile so the information in the casefile verifies the information reported;
OR
2. The Employment Contractor needs to correct the information on the data file and resubmit their entire file to the Department.

Note: Remember to contact Mark Kennedy prior to resubmitting your files, at mkennedy.nd.gov

Once corrected files are received for a quarter, the information is re-transmitted to the Federal Government.

When the audit of Employment Contractor files is being completed, to determine whether or not the reported hours are correct, the total hours for each activity must be divided by 4.33. Hours for all activities should NOT be added together before dividing by 4.33.

1308
#2
3/14

Record Retention

This section applies to all financial and programmatic records, supporting documents, statistical records and other records of the Employment Contractor which are:

1. Required to be maintained by the program regulations or contract; or
2. Otherwise reasonably considered pertinent to program regulations or the contract.

Length of Retention period

Records of all participants must be retained for a period of 3 years after the Employment Contractor makes a final payment for the individual, and all other pending matters, including litigation (appeals), claims, negotiation, audit or any other action involving the records has been started before the expiration of the 3-year period. When one of these occurs, the retention period extends until completion of the action and resolution of all issues, which arise from it, or until the end of the regular 3-year period, whichever is later.

Starting Date of Retention Period

When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the Employment Contractor submits to the Department of Human Services, its single or last expenditure report for that period.

1308
#2
3/14

Government or Tribal Office Closures

When an individual is placed at a Government or Tribal Office to complete their POP and the office is closed due to a Holiday or Administrative Leave, the individual must be placed at another worksite or placed in a different work activity so the individual can continue to meet the requirements of the POP. The individual would not be granted time off from participation in the JOBS program because of the office closure, unless it is one of the federally approved holidays identified in the Work Verification Plan.

Note: The individual should not be granted an excused absence during a Proof of Performance (POP) period as this is the period of time an individual is trying to show they can and will meet their work requirements. (See Proof of Performance Section for additional information.)

When an individual is placed at a Government or Tribal Office as their JOBS worksite and the office is closed due to a Holiday or Administrative Leave day, the individual will need to participate additional hours the days the offices are open, or be placed at another work site or in another work activity, in order to be able to meet the individual's Work Participation requirement. The individual would not be granted time off from participation in the JOBS Program because of the office closure, unless it is one of the federally approved holidays identified in the Work Verification Plan.

1308
2
3/14

Miscellaneous

If participants submit their completed TANF Monthly Report to the office of any Employment Contractor, the completed Monthly Report must immediately be mailed to the County Social Service Office in the county the participant resides. Employment Contractors should never retain the original TANF Monthly Report.

1308
#2
3/14

Additional Information

This section is to add additional information as received.