

PUBLIC ASSISTANCE BENEFITS AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill modifies provisions of the Family Employment Program.

Highlighted Provisions:

This bill:

- ▶ defines "licensed clinical therapist";
- ▶ modifies the requirements to receive cash assistance under the state's Family

Employment Program;

- ▶ modifies when an individual receiving cash assistance under the Family

Employment Program must take a written questionnaire designed to determine the likelihood of the applicant having a substance use disorder; and

- ▶ requires that an individual be evaluated by a licensed clinical therapist before an individual may be required to take a drug test as a condition of continuing to receive cash assistance under the Family Employment Program.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[35A-3-102](#), as last amended by Laws of Utah 2015, Chapter 221

[35A-3-304](#), as last amended by Laws of Utah 2015, Chapters 143 and 221

[35A-3-304.5](#), as last amended by Laws of Utah 2015, Chapter 221

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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **35A-3-102** is amended to read:

35A-3-102. Definitions.

As used in this chapter:

(1) "Adjudicative proceeding" has the same meaning as defined in Section [63G-4-103](#).

(2) "Administrative order" means an order issued by the department that addresses an overpayment of public assistance.

(3) "Applicant" means a person who requests assistance under this chapter.

(4) "Assignment of support" means the transfer to the state of a recipient's right to receive support from another person that accrues during the period the recipient receives public assistance, including a right to receive support on behalf of any family member for whom the recipient is applying for or receiving assistance.

(5) "Average monthly number of families" means the average number of families who received cash assistance on a monthly basis during the previous federal fiscal year.

(6) "Cash assistance" means the monthly dollar amount a recipient is eligible to receive under the Family Employment Program under Section [35A-3-302](#).

(7) "Child care services" means care of a child by a responsible person who is not the child's parent or legal guardian, for a portion of the day that is less than 24 hours in a qualified setting, as defined by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) (a) "Civic organization" means an organization that provides services to its community.

(b) "Civic organization" includes a community service club or organization, a charitable health care or service organization, a fraternal organization, a labor union, a minority or ethnic organization, a commercial or industrial organization, a commerce or business club, a private nonprofit organization, a private nonprofit corporation that provides funding to a community service organization, an organization that advocates or provides for the needs of

58 persons with low incomes, a religious organization, and an organization that fosters strong
59 neighborhoods and communities.

60 (9) "Court order" means a judgment or order of a court of this state, another state, or
61 the federal government that addresses an overpayment of public assistance.

62 (10) "Date of enrollment" means the date on which the applicant was approved as
63 eligible for cash assistance.

64 (11) "Director" means the director of the division assigned by the department to
65 administer a program.

66 (12) "Diversion" or "diversion payment" means a one-time cash assistance payment
67 under Section 35A-3-303 to a recipient who is eligible for cash assistance, but does not require
68 extended cash assistance under Part 3, Family Employment Program.

69 (13) "Education or training" means:

- 70 (a) basic remedial education;
- 71 (b) adult education;
- 72 (c) high school education;
- 73 (d) education to obtain the equivalent of a high school diploma;
- 74 (e) education to learn English as a second language;
- 75 (f) applied technology training;
- 76 (g) employment skills training; or
- 77 (h) on-the-job training.

78 (14) "Full-time education or training" means training on a full-time basis as defined by
79 the educational institution attended by the parent recipient.

80 (15) "General assistance" means financial assistance provided to a person under Part 4,
81 General Assistance.

82 (16) "Licensed clinical therapist" means an individual licensed by the state under:

- 83 (a) Title 58, Chapter 60, Part 2, Social Worker Licensing Act;
- 84 (b) Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act;
- 85 (c) Title 58, Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act; or

86 (d) Title 58, Chapter 61, Psychologist Licensing Act.

87 [~~(16)~~] (17) "Notice of agency action" means the notice required to commence an
88 adjudicative proceeding as described in Section 63G-4-201.

89 [~~(17)~~] (18) "Obligor" means an individual:

90 (a) who is liable to the state under Section 35A-3-603 and applicable federal statutes
91 and regulations; or

92 (b) against whom an administrative or judicial order determining overpayment has
93 been obtained.

94 [~~(18)~~] (19) (a) "Overpayment" means money, public assistance, or another item of
95 value provided under a state or federally funded benefit program to a person that is not entitled
96 to receive it or is not entitled to receive it at the level provided.

97 (b) "Overpayment" includes money paid to a provider under this title in connection
98 with public assistance or another publicly funded assistance program to the extent that the
99 provider receives payment:

100 (i) for goods or services not provided; or

101 (ii) in excess of the amount to which the provider is entitled.

102 [~~(19)~~] (20) "Parent recipient" means a person who enters into an employment plan with
103 the department to qualify for cash assistance under Part 3, Family Employment Program.

104 [~~(20)~~] (21) "Performance goals" means a target level of performance that will be
105 compared to actual performance.

106 [~~(21)~~] (22) "Performance indicators" means actual performance information regarding
107 a program or activity.

108 [~~(22)~~] (23) "Performance monitoring system" means a process to regularly collect and
109 analyze performance information, including performance indicators and performance goals.

110 [~~(23)~~] (24) "Plan" or "state plan" means the state plan submitted to the Secretary of the
111 United States Department of Health and Human Services to receive funding from the United
112 States through the Temporary Assistance for Needy Families Block Grant in accordance with
113 42 U.S.C. Sec. 602.

114 ~~[(24)]~~ (25) "Recipient" means a person who is qualified to receive, is receiving, or has
115 received assistance under this chapter.

116 ~~[(25)]~~ (26) "Single minor parent" means a person under 18 years of age who is not
117 married and has a minor child in the person's care and custody.

118 ~~[(26)]~~ (27) "Transitional cash assistance" means assistance provided to a recipient to
119 stabilize employment and reduce the future use of cash assistance provided under Part 3,
120 Family Employment Program.

121 Section 2. Section **35A-3-304** is amended to read:

122 **35A-3-304. Assessment -- Participation requirements and limitations --**
123 **Employment plan -- Mentors.**

124 (1) (a) Within 30 business days of the date of enrollment, the department shall provide
125 that a parent recipient:

126 (i) is assigned an employment counselor; and

127 (ii) completes an assessment provided by the department regarding the parent
128 recipient's:

129 (A) prior work experience;

130 (B) ability to become employable; and

131 (C) skills~~[-and]~~.

132 ~~[(D) likelihood of a substance use disorder involving the misuse of a controlled~~
133 ~~substance.]~~

134 (b) The assessment provided under Subsection (1)(a)(ii) shall include~~[-(i)]~~ a survey to
135 be completed by the parent recipient with the assistance of the department~~[-and]~~.

136 ~~[(ii) a written questionnaire to be completed by the parent recipient designed to~~
137 ~~accurately determine the likelihood of the parent recipient having a substance use disorder~~
138 ~~involving the misuse of a controlled substance.]~~

139 ~~[(c) In addition to the other requirements of this part, if the results of the written~~
140 ~~questionnaire taken by a parent recipient indicate a reasonable likelihood that the parent~~
141 ~~recipient has a substance use disorder involving the misuse of a controlled substance, the~~

142 ~~parent recipient may only receive cash assistance provided under this part in accordance with~~
143 ~~the additional requirements of Section 35A-3-304.5.]~~

144 (2) (a) Within 15 business days of a parent recipient completing an assessment[;]:

145 (i) the department and the parent recipient shall enter into an employment plan[;]; and

146 (ii) the parent recipient shall complete a written questionnaire, provided by the
147 department, designed to accurately determine the likelihood of the parent recipient having a
148 substance use disorder involving the misuse of a controlled substance.

149 (b) The employment plan shall have a target date for entry into employment.

150 (c) The department shall provide a copy of the employment plan to the parent recipient.

151 (d) For the parent recipient, the employment plan may include:

152 (i) job searching requirements;

153 (ii) if the parent recipient does not have a high school diploma, participation in an
154 educational program to obtain a high school diploma, or its equivalent;

155 (iii) education or training necessary to obtain employment;

156 (iv) a combination of work and education or training; and

157 (v) assisting the Office of Recovery Services in good faith to:

158 (A) establish the paternity of a minor child; and

159 (B) establish or enforce a child support order.

160 (e) If the parent recipient tests positive for the unlawful use of a controlled substance
161 after taking a drug test under Section 35A-3-304.5, the employment plan shall include an
162 agreement by the parent recipient to:

163 (i) participate in treatment for a substance use disorder; and

164 (ii) meet the other requirements of Section 35A-3-304.5.

165 (f) The department's responsibilities under the employment plan may include:

166 (i) providing cash and other types of public and employment assistance, including child
167 care;

168 (ii) assisting the parent recipient to obtain education or training necessary for
169 employment;

- 170 (iii) assisting the parent recipient to set up and follow a household budget; and
171 (iv) assisting the parent recipient to obtain employment.
- 172 (g) The department may amend the employment plan to reflect new information or
173 changed circumstances.
- 174 (h) If immediate employment is an activity in the employment plan, the parent recipient
175 shall:
- 176 (i) promptly commence a search for employment for a specified number of hours each
177 week; and
- 178 (ii) regularly submit a report to the department on:
- 179 (A) how time was spent in search for a job;
180 (B) the number of job applications completed;
181 (C) the interviews attended;
182 (D) the offers of employment extended; and
183 (E) other related information required by the department.
- 184 (i) (i) If full-time education or training to secure employment is an activity in an
185 employment plan, the parent recipient shall promptly undertake a full-time education or
186 training program.
- 187 (ii) The employment plan may describe courses, education or training goals, and
188 classroom hours.
- 189 (j) (i) The department may only provide cash assistance under this part if the parent
190 recipient agrees in writing to make a good faith effort to comply with the parent recipient's
191 employment plan.
- 192 (ii) The department shall establish a process to reconcile disputes between a parent
193 recipient and the department as to whether:
- 194 (A) the parent recipient has made a good faith effort to comply with the employment
195 plan; or
- 196 (B) the department has complied with the employment plan.
- 197 (iii) If a parent recipient consistently fails to show good faith in complying with the

198 employment plan, the department may seek to terminate all or part of the cash assistance
199 services provided under this part.

200 (3) The department may only provide cash assistance on behalf of a minor child under
201 this part if the minor child is:

202 (a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and
203 53A-11-101.7; or

204 (b) exempt from school attendance under Section 53A-11-102.

205 (4) This section does not apply to a person who has received diversion assistance under
206 Section 35A-3-303.

207 (5) (a) The department may recruit and train volunteers to serve as mentors for parent
208 recipients.

209 (b) A mentor may advocate on behalf of a parent recipient and help a parent recipient:

210 (i) develop life skills;

211 (ii) implement an employment plan; or

212 (iii) obtain services and support from:

213 (A) the volunteer mentor;

214 (B) the department; or

215 (C) civic organizations.

216 Section 3. Section 35A-3-304.5 is amended to read:

217 **35A-3-304.5. Drug testing requirements.**

218 (1) (a) If the results of [a] the written questionnaire described in Subsection
219 35A-3-304[~~(1)~~](2) indicate a reasonable likelihood that [an applicant] a parent recipient may
220 have a substance use disorder involving the misuse of a controlled substance, the department
221 shall require the [applicant] parent recipient to meet with a licensed clinical therapist and be
222 evaluated for a potential substance use disorder involving the misuse of a controlled substance.

223 (b) If the licensed clinical therapist determines that there is a reasonable likelihood that
224 the parent recipient may have a substance use disorder involving the misuse of a controlled
225 substance, the department shall require the parent applicant to take a drug test at the

226 department's expense in order to continue to receive cash assistance under this part.

227 (2) If [~~an applicant~~] a parent recipient refuses to meet with a licensed clinical therapist
228 or take a drug test if required under Subsection (1), the department shall terminate cash
229 assistance under this part and the [~~applicant~~] parent recipient may not reapply for cash
230 assistance under this part for:

231 (a) 90 days after a first refusal to meet with a licensed clinical therapist or take a drug
232 test; or

233 (b) one year after a second refusal to meet with a licensed clinical therapist or take a
234 drug test within one year.

235 (3) A drug test given under this section shall be administered with due regard to the
236 privacy and dignity of the person being tested.

237 (4) Before taking a drug test under this section, [~~an applicant~~] a parent recipient may
238 advise the person administering the test regarding any prescription or over-the-counter
239 medication the [~~applicant~~] parent recipient is taking.

240 (5) The result of a drug test given under this section is a private record in accordance
241 with Section [63G-2-302](#) and disclosure to a third party is prohibited except as provided under
242 Title 63G, Chapter 2, Government Records Access and Management Act.

243 (6) If [~~an applicant~~] a parent recipient tests negative for the unlawful use of a
244 controlled substance after taking a drug test under Subsection (1), the [~~applicant~~] parent
245 recipient is eligible for cash assistance, subject to the other eligibility requirements of this part.

246 (7) If [~~an applicant~~] a parent recipient tests positive for the unlawful use of a controlled
247 substance after taking a drug test under Subsection (1), the [~~applicant~~] parent recipient:

248 (a) shall be given a list of approved substance use disorder treatment providers that are
249 available in the area in which the individual resides; and

250 (b) may continue to receive benefits if the [~~applicant~~] parent recipient enters into and
251 follows the requirements of the [~~applicant's~~] parent recipient's employment plan, including:

252 (i) receiving treatment, at the department's expense, from an approved substance use
253 disorder treatment provider for at least 60 days;

254 (ii) testing negative for the unlawful use of a controlled substance:
255 (A) in each subsequent drug test required by department rule during treatment; and
256 (B) in an additional drug test given at the conclusion of treatment; and
257 (iii) meeting the other requirements of receiving cash assistance under this part.
258 (8) (a) The department shall terminate cash assistance under this part, if [~~an applicant~~]
259 a parent recipient:
260 (i) declines to enter into an employment plan required by Subsection (7); or
261 (ii) enters into, but fails to meet, a requirement of an employment plan under
262 Subsection (7), including if the [~~applicant~~] parent recipient refuses to take a drug test required
263 by the employment plan or tests positive for the unlawful use of a controlled substance in a
264 drug test required by the employment plan.
265 (b) [~~An applicant~~] A parent recipient whose cash assistance has been terminated under
266 Subsection (8)(a) may not reapply for cash assistance under this part for:
267 (i) except as provided in Subsection (8)(b)(ii), 90 days after the day on which the
268 department determines, under this Subsection (8), that the [~~applicant~~] parent recipient is no
269 longer eligible for cash assistance; or
270 (ii) one year after the day on which the department determines, under this Subsection
271 (8), that the [~~applicant~~] parent recipient is no longer eligible for cash assistance, if the
272 department has previously determined on at least one other occasion in the past year that the
273 [~~applicant~~] parent recipient is no longer eligible for cash assistance under this Subsection (8).