

September 22, 2011

The Honorable Geoff Davis
Chairman
House Committee on Ways and Means
Subcommittee on Human Resources
Washington, DC 20515

The Honorable Lloyd Doggett
Ranking Member
House Committee on Ways and Means
Subcommittee on Human Resources
Washington, DC 20515

Dear Chairman Davis and Ranking Member Doggett,

Thank you for your work to ensure TANF beneficiaries have opportunities to obtain meaningful employment and become self-sufficient. As you continue this critically important work, **the undersigned organizations are writing to ask that you actively oppose any legislation that would mandate suspicionless drug testing for TANF beneficiaries.** Conducting suspicionless drug testing of all TANF beneficiaries would place unnecessary financial burdens on taxpayers and state budgets in order to enact an ineffective policy. Not only is drug testing costly and prone to returning false-positives, but the provision of a drug test also does nothing to address drug dependence and other underlying issues. Denying nutrition, shelter and other basic assistance would punish families with children during an economic downturn. In addition, a federal mandate to states to drug test all TANF applicants and recipients would be duplicative since existing federal statute governing TANF already permits states to conduct drug testing. There is no basis for a new unfunded federal mandate to require states to do so.

Suspicionless drug testing is a flawed and inefficient way of identifying recipients in need of drug treatment. Claims that testing will save money are built upon the assumption that the tests will return a high number of positive results. However, welfare recipients use drugs at rates similar to the general population,¹ and the vast majority of TANF recipients do not use drugs. In Florida, where suspicionless drug testing is now the law, only 2% of those individuals tested have come up positive for illegal drugs.² Drug tests easily identify marijuana use but often miss cocaine, methamphetamine, and opiate-based drugs that ordinarily clear out of the body within a few days.³ Tests do not indicate if a person is impaired, or whether they are using less than they have in the past. Drug testing also fails to identify other serious problems like alcohol dependence and mental health disorders. In addition, a federal district court invalidated a Michigan law in 2000 that mandated suspicionless drug testing of all welfare applicants violated the Fourth Amendment right against unreasonable searches.⁴

Methods of screening for drug dependence that are more cost-effective and reliable include in-person interviews and questionnaires that are less likely to damage the mutual trust relationship between social worker and client like a drug test would.⁵ More than half the states use questionnaires designed to identify problem users and refer them to treatment (called a “screen-and-refer” method) that have high accuracy rates, are able to distinguish between drug

use and drug abuse, are able to also detect alcohol abuse, and are far less costly than drug testing.⁶

States should be spending what limited funding they may have on addiction treatment, counseling, replacement therapy and other services that will actually meet underlying needs. Although proponents of drug testing argue that it will encourage those who fail to seek drug treatment, their proposals generally fail to provide additional treatment funding to address the lack of capacity, even though drug treatment is an extremely efficient use of taxpayer money. Further, drug testing of TANF beneficiaries will perpetuate the stigma that keeps many individuals suffering from addiction from seeking the treatment they need and potentially applying for TANF assistance.

Suspicionless drug testing proponents have presented legislative proposals to require testing of TANF beneficiaries as a way to reduce budget deficits, but the evidence strongly discredits this assertion. Since most individuals refrain from using drugs on a regular basis, and the vast majority of testing kits can return false positives,⁷ an enormous amount of taxpayer money would be spent on the small number of positive results that emerge from a much larger population that is tested. Accordingly, the cost per positive result from drug testing could be anywhere from \$500 to thousands of dollars,⁸ or may run between \$20,000 and \$77,000 per person, as businesses and government employers have found when they have done testing.⁹ A report commissioned by the Idaho state legislature found that the cost of administering drug tests would exceed the taxpayer money saved from dropping individuals who failed a test.¹⁰

Children would be the biggest losers if a drug testing policy were implemented.¹¹ Denied access to the entire amount of basic assistance, families may be unable to meet children's core basic needs. Research shows that children who are denied public assistance are at greater risk of hospitalization and food insecurity.¹² Children suffer even when only the "adult portion" of the benefit is eliminated, and the impact on children may be even greater now since family budgets are already strained further by the recession. Furthermore, the recent Census Bureau report showing record levels of poverty in this country underscores the need to ensure children and families receive the benefits on which they rely.¹³

In conclusion, requiring suspicionless drug testing of TANF beneficiaries could adversely impact state budgets, impede more effective and efficient efforts to address problematic drug use, and dramatically increase the vulnerability of families and children struggling to make ends meet. It is unfair to expect the neediest among us to get drug tested in order to receive help, which is exactly why the South Dakota state legislature rejected a drug testing measure this year.¹⁴ South Dakota was not alone as the vast majority of more than 30 states to consider drug testing legislation over the last year have rejected the idea.¹⁵ We urge you to actively oppose drug testing of TANF beneficiaries and take all necessary steps to ensure that it does not receive consideration in Congress.

Sincerely,

A Better Way Foundation
ACLU

Advocare
American Probation and Parole Association
Blacks in Law Enforcement of America
Civic Trust Public Lobbying Company
Chicago Legal Advocacy for Incarcerated Mothers
Colorado Criminal Justice Reform Coalition
Correctional Education Association
Council on Addictions of New York State, Inc.
Desiree Alliance
Drug Policy Alliance
Drug Policy Forum of Hawaii
Drug Policy Forum of Kansas
Drug Policy Forum of Texas
Ella Baker Center for Human Rights
Families Rally for Emancipation and Empowerment
FedCURE
Friends of Recovery of Delaware and Otsego Counties, Inc.
Fortune Society's David Rothenberg Center for Public Policy
HIV Prevention Justice Alliance
International CURE
Jewish Social Policy Action Network
Law Enforcement Against Prohibition
Legal Action Center
Legal Momentum
Legal Services for Prisoners with Children
Los Angeles County HIV Drug & Alcohol Task Force
Maryland C.U.R.E.
Mennonite Central Committee U.S., Washington Office
Middle Ground Prison Reform
NAACP
NAADAC, The Association for Addiction Professionals
National African American Drug Policy Coalition Inc.
National Association for Public Health Policy
National Association of Social Workers
National Association on Alcohol, Drugs, and Disability
National Employment Law Project
National H.I.R.E. Network
National Lawyers Guild Drug Policy Committee
National TASC
NETWORK, A National Catholic Justice Lobby
Ohio Justice & Policy Center
Perspectives, Inc.
Prisoners & Families for Equal Rights and Justice
Public Interest Law Center of Philadelphia
Public Justice Center
Rainbow PUSH Coalition

Recovery Association Project
Reentry Central
Safe Streets Arts Foundation
Safer Alternative for Enjoyable Recreation
St. Leonard's Ministries
Sargent Shriver National Center on Poverty Law
Sensible Colorado
Social Action Linking Together (SALT)
StoptheDrugWar.org
TASC, Inc. (Illinois)
The Leadership Conference on Civil and Human Rights
The Real Cost of Prisons Project
Treatment Communities of America
United Methodist Church, General Board of Church and Society
Virginia CURE
Women's Alliance for Theology, Ethics and Ritual
Women's ReEntry Network

¹ U.S. Department of Health and Human Services, National Institutes of Health, "NIAAA Researchers Estimate Alcohol and Drug Use, Abuse, and Dependence," October 24, 1996.

² Editorial, "False Positive," Orlando Sentinel, August 27, 2011, available at <http://www.orlandosentinel.com/news/opinion/os-ed-welfare-drug-tests-082711-20110826,0,7350241.story>.

³ "Drugs of Abuse Reference Guide," LabCorp Inc, available at http://www.labcorpsolutions.com/images/Drugs_of_Abuse_Reference_Guide_Flyer_3166.pdf

⁴ Marchwinski v. Howard, 113 F. Supp. 2d 1134 (E.D. Mich. 2000), aff'd, 60 F. App'x 601 (6th Cir. 2003)

⁵ "States consider drug testing for welfare recipients," Alcoholism & Drug Abuse Weekly 21.8 (2009): 4-6

⁶ Robert E. Crew, Jr. and Belinda Creel Davis, "Assessing the Effects of Substance Abuse Among Applicants for TANF Benefits: The Outcome of a Demonstration Project in Florida," Journal of Health and Social Policy, 2003; "The State of State Policy on TANF & Addiction," Legal Action Center, Gwen Rubenstein, June 2002, available at http://www.lac.org/doc_library/lac/publications/state_of_state.pdf

⁷ Robert L. DuPont, Teresa G. Campbell, and Jacqueline Mazza, "Report of a Preliminary Study: Elements of a Successful School-Based Drug Testing Program," U.S. Department of Education, 2002, p. 8, available at <http://www.studentdrugtesting.org/SDT%20DUPONT%20STUDY.pdf> ; American Civil Liberties Union, "Drug Testing of Public Assistance Recipients as a Condition of Eligibility," April 8, 2008, available at <http://www.aclu.org/drug-law-reform/drug-testing-public-assistance-recipients-condition-eligibility>

⁸ R. Brinkley Smithers Inst., "Workplace Substance Abuse Testing, Drug Testing: Cost and Effect," Cornell University, January 1992

⁹ American Civil Liberties Union, “Drug Testing of Public Assistance Recipients as a Condition of Eligibility,” April 8, 2008, available at <http://www.aclu.org/drug-law-reform/drug-testing-public-assistance-recipients-condition-eligibility>

¹⁰ Idaho Department of Health and Welfare, “Drug Testing Public Welfare Assistance Program Participants (Report),” February 4, 2011, available at <http://www.idahoreporter.com/wp-content/uploads/2011/02/DHW-report.pdf>; “DHW study says welfare recipient drug testing would cost state more money than it’s worth,” Idaho Reporter, Dustin Hurst, February 9, 2011, available at <http://www.idahoreporter.com/2011/dhw-study-says-welfare-recipient-drug-testing-would-cost-state-more-money-than-it%E2%80%99s-worth/>

¹¹ U.S. Dept. of Health & Human Services., Administration for Children & Families, Caseload Data 2010

¹² The Impact of Welfare Sanctions on the Health of Infants and Toddlers, Children’s Sentinel Nutrition Assessment Program, July 2002

¹³ United States Census Bureau, “Income, Poverty, and Health Insurance Coverage in the United States: 2010.” (September 2011), available at <http://www.census.gov/prod/2011pubs/p60-239.pdf>; see also Robert J. Samuelson, “Stuck in the Great Recession’s Pessimism Trap,” Wash. Post, September 19, 2011, available at http://www.washingtonpost.com/opinions/stuck-in-the-great-recessions-pessimism-trap/2011/09/16/gIQAq7sYdK_story.html.

¹⁴ “State House rejects drug tests for welfare recipients,” Associated Press/Rapid City Journal, February 7, 2011, available at http://www.rapidcityjournal.com/news/article_ea823612-3317-11e0-95e6-001cc4c03286.html

¹⁵ Daniel Denvir, “The Return of Reagan’s Welfare Queen,” The Guardian, May 24, 2011, available at <http://www.guardian.co.uk/commentisfree/cifamerica/2011/may/24/welfare-us-politics>.