

# Michigan begins random drug testing of welfare recipients

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Last month Michigan became the first state in the US to implement a program of random drug testing for welfare recipients. A 1999 Michigan law calls for a pilot program of random substance abuse testing in at least three counties. Drug testing started at the beginning of October in Alpena, Presque Isle, and Berrien counties and a designated area of Western Wayne County, including some of Detroit's west side neighborhoods.

All new applicants for Family Independence Agency (FIA) assistance living in the target areas must provide a urine sample to officials or give up their right to any government aid. The new law also mandates random tests of current recipients in the target areas.

The FIA began the tests despite a class-action suit filed by the Michigan chapter of the American Civil Liberties Union (ACLU) two days before the testing was scheduled to begin. The suit charges that the program violates the constitutional rights of welfare recipients. The lawsuit was filed in the name of two Michigan mothers and a Detroit organization, the Westside Mothers, which represents hundreds of welfare recipients and their families. The ACLU has demanded the FIA reverse its mandatory drug testing policy. They also opposed FIA plans to cut off welfare benefits to individuals who refuse to consent to the test.

Both the Michigan program and the language in the 1996 federal welfare "reform" law that authorizes drug testing are blatant violations of democratic rights and of the US Constitution. "The Fourth Amendment guarantees that no individual in this country can be subjected to a search by the government unless there is reasonable suspicion that they have committed some crime," said Kary Moss, executive director of the ACLU in Michigan. "Welfare recipients may be poor, but that's not a crime—not yet, anyway."

Despite the inherently unconstitutional nature of the invasive drug test, states were authorized to implement mandatory drug testing by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The act, passed by Congress and signed by President Clinton, ended the federal government's decades-old guarantee to provide

cash benefits for the nation's poor.

According to state leaders of the ACLU, Michigan is the only state now actively using such widespread drug testing under provisions contained in the federal law. Moss told the *World Socialist Web Site* that it was critical the Michigan policy be declared unconstitutional to set an important precedent for other states contemplating mandatory testing.

Four other states require drug testing of individuals with drug felony convictions. Federal law says that anyone convicted of a drug felony after August 1996 can be denied welfare benefits and food stamps. More than half the remaining states use prescreening of behaviors they associate with drug abuse to determine candidates for urine tests. Earlier this year New York officials proposed another invasive search, suggesting they scour health records of aid applicants for evidence of previous drug treatment.

A number of states dropped plans to begin random or "suspicionless" drug testing. Oregon ended its program after widespread opposition and Florida dropped it rather than face a legal suit from the ACLU. The state of Louisiana opted not to fund random testing proposed by state legislators.

Under the new Michigan law, by 2003 those applying for or collecting benefits from the FIA anywhere in the state will be subjected to drug testing. Former recipients of cash aid forced into low-paying jobs that leave them dependent on food stamps, government funded medical insurance (Medicaid), and childcare assistance will also be subject to the tests. At present the law covers those living in target areas who are under 65 living and collecting state disability subsidies.

Random drug testing by the government has already been successfully challenged under the US Constitution. In the 1997 case *Chandler v. Miller*, the US Supreme Court found a Georgia law requiring candidates for state office to test negative in a drug urinalysis unconstitutional. The ACLU brief contends that "the state of Michigan does not require mandatory random drug testing as a condition for receiving other state financial benefits, such as those provided to

students, corporations and taxpayers. Michigan has stigmatized such recipients as being more likely than other recipients of state financial benefits to be substance abusers and to have engaged in violation of state law."

Furthermore, the brief asserts that the test Michigan plans to use is not a reliable indicator of drug abuse or addiction. False positives for marijuana use can be generated by something as simple as taking the over-the-counter painkiller ibuprofen.

Despite evidence from a 1996 federal study showing that "the percentage of welfare recipients using, abusing, or dependent on alcohol or drugs [is] relatively small and consistent with the general U.S. population and those not receiving welfare benefits," officials are determined to go ahead with tests for marijuana and other drugs. By reinforcing prejudices linking drug abuse to aid recipients, they hope to further stigmatize those on welfare and prevent new applicants from applying for benefits. They can employ the stigma to discourage returning applicants as well. Early research showed sizable numbers—up to 30 percent of recipients whom left the rolls and found jobs—returned to welfare cash assistance within two years.

More importantly, time limits on lifetime benefit eligibility are now rapidly approaching for those who have remained on the rolls since the 1996 law went into effect. The pressure to get rid of these "hard sell" cases is intense. Because they experience multiple difficulties including physical and mental illness, marketing them to prospective employers is extremely difficult. Addressing their problems in finding and maintaining a job is a prohibitively expensive enterprise, according to state officials.

A 1999 University of Michigan study of FIA participants in Alpena County found the main barriers to employment were not drug or alcohol use, but medical problems, lack of childcare, lack of education, lack of transportation and school attendance. Numerous state and national organizations including the FIA have identified these problems, and not drug or alcohol abuse, as the most pervasive. Programs to address these barriers are expensive and either inadequate or nonexistent.

Most disingenuous are protests by officials that the aim of the Michigan drug-testing program is treatment, not punishment. The state agency requires that welfare recipients testing positive for illegal drug use successfully complete a treatment program or be cut off welfare. However, how this program will be structured, what constitutes successful completion and how much time a recipient will be allotted to become drug-free is not spelled out. Community drug rehabilitation centers are inadequate already. No residential treatment programs in the target areas have facilities for childcare. Medicaid recipients in Michigan

have been pushed into managed-care programs, already notorious for their limitations on mental health and substance abuse services.

What has happened to thousands of mentally ill in the state in the last decade further proves the intent of the new welfare drug-testing program is punishment, not treatment. In September 1999 the University of Michigan Center for Poverty, Risk and Mental Health reviewed a 1994-95 federal survey. They found depression and three other psychiatric disorders were as common as drug use among welfare recipients not otherwise disabled.

Yet no Michigan law has mandated widespread screening, much less treatment, for these four common mental health problems or any other mental health problems suffered by some welfare recipients, which adversely impact the ability to get and hold a job.

Michigan jails and prisons are packed with the mentally ill who ended up there because they did not have access to treatment for debilitating illnesses. Michigan began cutting its health care programs in 1989-90 under the Democratic administration of Governor James Blanchard. Republican Governor John Engler then virtually dismantled mental health care for the poor. From eighteen psychiatric hospitals run by the state government in the early 1960s, housing 19,000 patients, today there are only five institutions, four for adults and one for children, assisting 1,500 patients statewide.

The ACLU has also warned about another punitive outcome of the drug testing. If the government denies recipients benefits required to provide for the basic needs of their children, parents could be charged with child neglect and lose custody of their children.



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