

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H2/27/13

A Bill

HOUSE BILL 1384

5 By: Representative Miller
6

For An Act To Be Entitled

8 *AN ACT TO REQUIRE THAT CAREGIVERS FOR THE MEDICAID*
9 *INDEPENDENTCHOICES PROGRAM BE TESTED FOR ILLEGAL DRUG*
10 *USE; TO REQUIRE CRIMINAL BACKGROUND CHECKS; AND FOR*
11 *OTHER PURPOSES.*

Subtitle

12
13
14 *TO REQUIRE THAT CAREGIVERS FOR THE*
15 *MEDICAID INDEPENDENTCHOICES PROGRAM BE*
16 *TESTED FOR ILLEGAL DRUG USE AND UNDERGO*
17 *CRIMINAL BACKGROUND CHECKS.*
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 *SECTION 1. Arkansas Code Title 20, Chapter 77, Subchapter 1, is*
24 *amended to add an additional section to read as follows:*

25 *20-77-125. IndependentChoices caregiver drug tests and criminal*
26 *background checks.*

27 *(a) As used in this section, "caregiver" means an individual who has*
28 *responsibility for the protection, care, or custody of an IndependentChoices*
29 *Program enrollee as a result of assuming the responsibility by contract or*
30 *through employment.*

31 *(b)(1) A caregiver shall submit to a drug screen that tests for the*
32 *use of illegal drugs through a program established by the Department of Human*
33 *Services.*

34 *(2) A drug screen under this section shall be administered to:*

35 *(A) A caregiver on or after September 1, 2013; and*

36 *(B)(i) A random sampling of caregivers on or after*



1 September 1, 2013.

2 (ii) The random sampling shall be designed to ensure
3 that each caregiver is tested for illegal drug use under this section at
4 least one (1) time every five (5) years.

5 (3)(A) A caregiver who refuses to submit to a drug screen
6 required under this section or who tests positive for the use of illegal
7 drugs in a drug screen required under this section shall be ineligible for
8 employment under the IndependentChoices Program for six (6) months after the
9 date of the refusal or the date of the positive test result.

10 (B)(i) After the six-month period under subdivision
11 (b)(3)(A) of this section, the caregiver may volunteer to undergo a new test
12 for the use of illegal drugs under this section.

13 (ii) If the caregiver tests positive for the use of
14 illegal drugs in a voluntary drug screen under this section, the caregiver
15 shall be ineligible for future employment under the IndependentChoices
16 Program.

17 (c)(1) The Department of Human Services shall require a state and
18 federal criminal background check of a caregiver and of an applicant to
19 become a caregiver by the Identification Bureau of the Department of Arkansas
20 State Police and the Federal Bureau of Investigation that conforms to the
21 applicable standards and includes the taking of fingerprints.

22 (2) A caregiver or an applicant to become a caregiver shall pay
23 for the payment of any fee associated with the criminal records check under
24 this subsection.

25 (3) Before a criminal background check is performed, a caregiver
26 or an applicant to become a caregiver shall sign a release authorizing the
27 background check.

28 (4) Upon completion of the criminal background check, the
29 Identification Bureau of the Department of Arkansas State Police shall
30 forward to the Department of Human Services information obtained concerning
31 the caregiver or applicant to become a caregiver that indicates that the
32 caregiver or applicant to become a caregiver has pleaded guilty or nolo
33 contendere to or has been found guilty of a felony or crime involving moral
34 turpitude or dishonesty.

35 (5) The results of the background check shall be used by the
36 Department of Human Services to determine the suitability of:

1 (A) An applicant to become a caregiver under the
2 IndependentChoices Program; or

3 (B) A caregiver for continued employment under the
4 IndependentChoices Program.

5 (6) A caregiver or applicant to become a caregiver who has
6 pleaded guilty or nolo contendere to or has been found guilty of a felony or
7 crime involving moral turpitude or dishonesty shall not be employed in the
8 IndependentChoices Program.

9 (7) The criminal background information of a caregiver or
10 applicant to become a caregiver is confidential.

11 (d)(1) The Department of Human Services shall adopt rules to implement
12 this section.

13 (2) If necessary, the Department of Human Services shall seek a
14 waiver from the Centers for Medicare and Medicaid Services for approval of
15 the rules adopted under this section.

16
17
18 /s/Miller
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36