

Hall of the House of Representatives
89th General Assembly - Regular Session, 2013
Amendment Form

Subtitle of House Bill No. 1384

TO REQUIRE THAT PROVIDERS FOR CERTAIN MEDICAID WAIVER PROGRAMS BE TESTED FOR
ILLEGAL DRUG USE.

Amendment No. 1 to House Bill No. 1384

Amend House Bill No. 1384 as originally introduced:

Page 1, delete lines 8 through 10 and substitute the following:
"AN ACT TO REQUIRE THAT CAREGIVERS FOR THE MEDICAID INDEPENDENTCHOICES PROGRAM BE TESTED FOR ILLEGAL DRUG USE; TO REQUIRE CRIMINAL BACKGROUND CHECKS; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 14 through 16 and substitute the following:
"TO REQUIRE THAT CAREGIVERS FOR THE MEDICAID INDEPENDENTCHOICES PROGRAM BE TESTED FOR ILLEGAL DRUG USE AND UNDERGO CRIMINAL BACKGROUND CHECKS."

AND

Page 1, delete everything after the enacting clause and substitute the following:

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

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

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

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

(2) A drug screen under this section shall be administered to:
(A) A caregiver on or after September 1, 2013; and
(B)(i) A random sampling of caregivers on or after
September 1, 2013.

(ii) The random sampling shall be designed to ensure that each caregiver is tested for illegal drug use under this section at



least one (1) time every five (5) years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Amendment was read _____

By: Representative Miller
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Chief Clerk