

Effective 5/12/2015

Superseded 5/10/2016

35A-3-304.5 Drug testing requirements.

- (1) If the results of a questionnaire described in Subsection 35A-3-304(1) indicate a reasonable likelihood that an applicant may have a substance use disorder involving the misuse of a controlled substance, the department shall require the applicant to take a drug test at the department's expense in order to continue to receive cash assistance under this part.
- (2) If an applicant refuses to take a drug test required under Subsection (1), the department shall terminate cash assistance under this part and the applicant may not reapply for cash assistance under this part for:
 - (a) 90 days after a first refusal to take a drug test; or
 - (b) one year after a second refusal to take a drug test within one year.
- (3) A drug test given under this section shall be administered with due regard to the privacy and dignity of the person being tested.
- (4) Before taking a drug test under this section, an applicant may advise the person administering the test regarding any prescription or over-the-counter medication the applicant is taking.
- (5) The result of a drug test given under this section is a private record in accordance with Section 63G-2-302 and disclosure to a third party is prohibited except as provided under Title 63G, Chapter 2, Government Records Access and Management Act.
- (6) If an applicant tests negative for the unlawful use of a controlled substance after taking a drug test under Subsection (1), the applicant is eligible for cash assistance, subject to the other eligibility requirements of this part.
- (7) If an applicant tests positive for the unlawful use of a controlled substance after taking a drug test under Subsection (1), the applicant:
 - (a) shall be given a list of approved substance use disorder treatment providers that are available in the area in which the individual resides; and
 - (b) may continue to receive benefits if the applicant enters into and follows the requirements of the applicant's employment plan, including:
 - (i) receiving treatment, at the department's expense, from an approved substance use disorder treatment provider for at least 60 days;
 - (ii) testing negative for the unlawful use of a controlled substance:
 - (A) in each subsequent drug test required by department rule during treatment; and
 - (B) in an additional drug test given at the conclusion of treatment; and
 - (iii) meeting the other requirements of receiving cash assistance under this part.
- (8)
 - (a) The department shall terminate cash assistance under this part, if an applicant:
 - (i) declines to enter into an employment plan required by Subsection (7); or
 - (ii) enters into, but fails to meet, a requirement of an employment plan under Subsection (7), including if the applicant refuses to take a drug test required by the employment plan or tests positive for the unlawful use of a controlled substance in a drug test required by the employment plan.
 - (b) An applicant whose cash assistance has been terminated under Subsection (8)(a) may not reapply for cash assistance under this part for:
 - (i) except as provided in Subsection (8)(b)(ii), 90 days after the day on which the department determines, under this Subsection (8), that the applicant is no longer eligible for cash assistance; or
 - (ii) one year after the day on which the department determines, under this Subsection (8), that the applicant is no longer eligible for cash assistance, if the department has previously

determined on at least one other occasion in the past year that the applicant is no longer eligible for cash assistance under this Subsection (8).