



## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

---

None.

---

### 12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The rule will ensure that able-bodied adults without dependents who are receiving taxpayer supported workforce training services are work-ready. It will also provide individuals who do test positive for an illegal substance a path to treatment. Wisconsin businesses will benefit by having more individuals ready to be hired and perform work. The proposed rules impose no compliance or reporting requirements on small businesses.

The rule will result in additional responsibilities for county Income Maintenance (IM) consortia and Milwaukee Enrollment Services (MiES), which will administer the screening questionnaire. The Department intends to automate the questionnaire through the CARES system, resulting in minimal workload for IM agencies (including MiES). IM agencies will be responsible for arranging the drug test for those individuals whose answers on the screening questionnaire indicate possible abuse of a controlled substance. It is estimated that roughly 66,200 individuals would be screened each year, with 3% or about 2,000 requiring a drug test. The annual cost of the drug test for local agencies is estimated to be \$99,700, including the costs of re-testing during treatment.

It is estimated that 11% of individuals (or 220) who take a drug test would test positive for controlled substances and would seek treatment at an average cost of \$3,880 per person. Approximately 60% of FoodShare recipients are Medicaid enrollees. It is assumed the remaining 40% would seek treatment services through county human services agencies or, in some cases, through private insurance. Treatment costs would total \$853,700 All Funds. Of this amount \$497,500 (\$302,600 FED and \$194,900 GPR) would be funded through the state Medicaid program and \$356,200 would be funded by county human services agencies, or potentially private insurance in some cases.

These costs do not result from the rule itself but from the requirement under Wis. Stat. 49.79 (9) (d) to develop the drug screening, testing, and treatment policy.

---

### 13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

No reasonable alternative exists to rulemaking because the Wisconsin Legislature has directed the Department to promulgate rules to develop and implement the policy. Wis. Stat. 49.79 (9) (d) directs the Department to develop and implement a drug screening, testing, and treatment policy to screen and, if indicated, test and treat participants in an employment and training program within the state's FoodShare program who are able-bodied adults for use of a controlled substance without a valid prescription for the controlled substance.

---

### 14. Long Range Implications of Implementing the Rule

The rule will ensure that able-bodied adults without dependents who are receiving taxpayer supported workforce training services are work-ready. It will also provide individuals who do test positive for an illegal substance a path to treatment. Wisconsin businesses will benefit by having more individuals ready to be hired and perform work. The proposed rules impose no compliance or reporting requirements on small businesses.

---

### 15. Compare With Approaches Being Used by Federal Government

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

---

21 U.S.C. § 862b provides:

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from testing welfare recipients for use of controlled substances nor from sanctioning welfare recipients who test positive for use of controlled substances.

The proposed rule will operationalize this federally-authorized testing in Wisconsin.

---

### 16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The only adjacent state that has passed legislation for drug testing for public assistance recipient is Michigan. In 1999, Michigan passed a law requiring all applicants for Michigan's Temporary Assistance for Needy Families program, the Family Independence Program, to undergo drug testing. That law was declared unconstitutional in a decision that held Michigan law authorizing suspicion-less drug testing of welfare recipients was unconstitutional because it was not intended to address public safety, and the state's desire to address substance abuse as a barrier to employment was not a special need sufficient to justify departure from the Fourth Amendment requirement of individualized suspicion. While initially reversed on appeal to the 6<sup>th</sup> Circuit Court of Appeals, the initial decision was vacated when the 6<sup>th</sup> Circuit Court decided to hear the case en banc. The full court split 6-6 without decision, and the effect was to affirm the District Court's decision and order.

In 2014, the Michigan legislature authorized a new three-county pilot project to evaluate drug testing of applicants for public assistance based on suspicion, and the bills were signed into law on December 2014. There are no administrative rules for this project, which is scheduled to run for one year ending in September, 2016.

Other states have adopted administrative rules relating to drug testing and treatment of recipients of public assistance include North Carolina, Tennessee, and Missouri. Unlike Wisconsin where the enabling statute addresses participation in work experience programs, the North Carolina, Tennessee, and Missouri rules determine eligibility to receive cash benefits.

As of March 2016, at least 17 states have proposed legislation requiring some form of drug testing or screening for public assistance recipients this year. The states include: Hawaii, Illinois, Iowa, Kentucky, Massachusetts, Minnesota, Mississippi, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Carolina, South Dakota, Vermont, Virginia and West Virginia.

---

17. Contact Name	18. Contact Phone Number
Al Matano	(608) 267-6848

---

This document can be made available in alternate formats to individuals with disabilities upon request.