

Temporary Adoption for Publication in the NCAC

1 **10 NCAC 71W.0905 is adopted under temporary procedures as follows:**

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3 **10A NCAC 71W .0905 DRUG TESTING**

4 ~~[(a) The county director shall require] drug screening- [of all applicants and recipients,] and testing if there is~~
5 ~~reasonable suspicion that an [applicant or recipient] individual is engaged in the illegal use of controlled substances,~~
6 ~~will be conducted as a condition of eligibility for receiving Work First Program assistance, [subject to the~~
7 ~~exemptions in G.S.108A 29.1(a) and (h). The county director shall require that] each applicant or recipient shall~~
8 ~~receive a written [notice, developed by the Division of Social Services, about drug screening and testing.], when~~
9 ~~there is a reasonable suspicion is a condition of eligibility for Work First Program Assistance.~~

10 ~~(d)[(b) Reasonable suspicion may [shall only] be established by utilizing the following methods:~~

11 ~~(1) A criminal record check conducted under G.S. 114 19.34; that discloses a conviction, arrest, or~~
12 ~~outstanding warrant relating to illegal controlled substances within the three years prior to the date the~~
13 ~~criminal record check is conducted.~~

14 ~~(2) A determination by a qualified professional in substance abuse or a physician certified by the American~~
15 ~~Society of Addiction Medicine; [or] that an individual is addicted to illegal controlled substances.~~

16 ~~(3) A screening tool [The Drug Abuse Screening Test (DAST)] relating to the abuse of illegal controlled~~
17 ~~[substances.] that yields a result indicating that the applicant or recipient may be engaged in the illegal use~~
18 ~~of controlled substances.~~

19 ~~(4) Other screening methods, as determined by the Department.~~

20 ~~(b) (c) The county director shall require a basic five panel drug test for applicants and recipients of Work First~~
21 ~~Family Assistance where there is a reasonable suspicion the applicant or recipient individual is engaged in the illegal~~
22 ~~use of controlled substances. will be required. The drug test shall will identify the following illegal use and/or~~
23 ~~controlled substances- illegal use of the following controlled substances:~~

24 ~~1.(a) cannabinoids;~~

25 ~~2.(b) cocaine;~~

26 ~~3.(e) methamphetamines/Amphetamines;~~

27 ~~4.(d) opiates; and~~

28 ~~5.(e) phencyclidine.~~

29 ~~(2) The results of drug tests will remain confidential and will not be released to law enforcement.~~

30 ~~(e) All applicants or recipients who are included in the financial assistance unit, including both parents in two parent~~
31 ~~households and any teen parent who is emancipated pursuant to Article 35 of Chapter 7B, shall comply with the~~
32 ~~requirements of this rule. The following are exempt from drug testing and screening:~~

33 ~~(1) Child Only cases~~

34 ~~(2) Dependent children under the age of 18.~~

35 ~~(e) Each applicant or recipient shall receive written notice that drug screening and testing is a condition of eligibility~~
36 ~~for Work First Program assistance.~~

1 ~~(f)(g)(d) The county director shall]require that each applicant or recipient being tested shall sign a written~~
2 ~~acknowledgment that he or she has received and understood the drug testing notice [in accordance with provisions~~
3 ~~108-29.1A]and advice developed by the Division of Social Services. [The county director shall require that] each~~
4 ~~applicant or recipient shall be advised before drug testing he or she may inform the agent administering the test of~~
5 ~~any prescription or over the counter medication he or she is taking.~~

6 ~~(h)(e) The county director shall] advise each applicant or recipient who tests positive for an illegal use of controlled~~
7 ~~substance or illegal use of a controlled substance shall be advised that he or she has the right to take one or more~~
8 ~~additional tests at the applicant's or recipient's expense.~~

9 (1) at;

10 (2) at a testing facility approved by the Department or county department of social services and

11 (3) within seven days of the applicant or recipient receiving notice of the results of the original drug test.

12 ~~(i)(f) The county director shall require that]each applicant or recipient who tests positive for an illegal controlled~~
13 ~~substance or illegal use of a controlled substance shall:~~

14 ~~[(1)] be provided with [receive] information regarding substance abuse, substance abuse counseling and~~
15 ~~substance abuse treatment options; including a list of substance abuse treatment programs that may be~~
16 ~~available to the individual.~~

17 ~~[(2) be ineligible to receive Work First benefits subject to the reinstatement provisions in G.S. 108A-29.1]~~

18 ~~[(b) (b1) and (b2).] for one year from the date of the positive drug test. The individual shall be eligible~~
19 ~~after one year.~~

20 (3) be eligible prior to one year if one of the following applies:

21 (a) each applicant or recipient deemed ineligible may reapply after 30 days from the date of the
22 positive drug test if the applicant or recipient can document successful completion of or current
23 satisfactory participation in a substance abuse treatment program offered by a provider in (1)
24 above and licensed by the Department. The applicant who reapplies after the successful
25 completion of a substance abuse program shall pass a drug test. The cost of any drug testing and
26 substance abuse program shall be the responsibility of the person being tested; or

27 (b) each applicant or recipient deemed ineligible may reapply after the expiration of 30 days from
28 the date of the positive drug test if a qualified professional in substance abuse or a physician
29 certified by the American Society of Addiction Medicine determines substance abuse treatment is
30 not appropriate, and the applicant or recipient has passed a subsequent drug test. The cost of any
31 drug testing is the responsibility of the person being tested.

32 (c) An applicant or recipient who reapplies for Work First Program assistance under (a) or (b)
33 above may reapply one time only.

34 (4) If the applicant or recipient has any subsequent positive drug tests, the individual shall be ineligible for
35 Work First Program benefits for three years from the date of the subsequent positive drug tests unless the
36 individual reapplies pursuant to subsection (i)(3) of this rule.

1 ~~(j) The applicant or recipient shall be responsible for providing verification of the drug testing results from a testing~~
2 ~~facility approved by the Department or county department of social services.~~

3 ~~(k) The Department shall cooperate with qualified professionals in substance abuse, a physician certified by the~~
4 ~~American Society of Addiction Medicine, drug testing facility or other area mental health authorities to determine:~~

5 ~~(1) if a substance abuse program is not appropriate for the individual; or~~

6 ~~(2) the individual has passed or failed a drug test; and/or~~

7 ~~(3) a statewide listing of approved substance abuse treatment facilities~~

8 ~~(4) the successful completion of or satisfactory participation in a substance abuse treatment program.~~

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10 *History Note: Authority G.S. 108A-29.1;143B-153;*

11 *Temporary Adoption Eff. November 1, 2014*