

## CHAPTER 73 – CONTROLLED SUBSTANCES

### SUBCHAPTER 73A – WORK FIRST SUBSTANCE ABUSE SCREENING AND TESTING

#### SECTION .0100 - GENERAL

##### **10A NCAC 73A .0101 SCOPE AND PURPOSE**

Public Law 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 prohibits the provision of Temporary Assistance for Needy Families assistance to individuals who have a drug related felony conviction occurring on or after August 22, 1996. The purpose of the rules in this Subchapter is to set forth requirements for the substance use screening and drug testing of Work First Program applicants and recipients.

*History Note:* Authority G.S. 108A-25.2; 108A-29.1; 143B-153;  
Eff. June 1, 2015.

##### **10A NCAC 73A .0102 DEFINITIONS**

The following definitions apply to this Chapter:

- (1) "Controlled substance" means as defined in G.S. 90-87(5).
- (2) "Drug test" means the production and submission of a biochemical assay by an applicant or recipient for chemical analysis to detect illegal use of drugs. Such chemical analysis shall meet the requirements of the Controlled Substance Examination Regulation Act, G.S. 95, Article 20.
- (3) "Illegal use of controlled substances" means the violation of State or federal law for use of the drugs set forth in Rule .0103 of this Section.
- (4) "Reasonable suspicion" means a sufficient basis to believe that the applicant or recipient is engaged in the illegal use of a controlled substance and such reasonable suspicion shall be established only by one of the following:
  - (a) a score of three or above on the verbal screening questionnaire, the Drug Abuse Screening Test (DAST-10), or
  - (b) a criminal conviction relating to an illegal controlled substance within the past three years.
- (5) "Substance use screening" means utilizing the DAST-10 to determine a potential for a substance use disorder.
- (6) "Applicant or recipient" for the purposes of drug testing means as defined in G.S. 108A-29.1(a).

*History Note:* Authority G.S. 108A-29.1; 143B-153;  
Eff. June 1, 2015.

##### **10A NCAC 73A .0103 DRUG TESTING**

The county director shall require a basic five panel drug test for applicants and recipients of Work First Family Assistance where there is a reasonable suspicion the applicant or recipient is engaged in the illegal use of controlled substances. The drug test shall identify the illegal use of the following controlled substances:

- (1) cannabinoids;
- (2) cocaine;
- (3) methamphetamines or amphetamines;
- (4) opiates; and
- (5) phencyclidine.

*History Note:* Authority G.S. 108A-29.1; 143B-153;  
Eff. June 1, 2015.

##### **10A NCAC 73A .0104 DRUG TESTING REQUIREMENTS**

- (a) The Drug Abuse Screening Test (DAST-10) shall be completed by an applicant or recipient as a condition of eligibility for the Work First program.
- (b) If the applicant or recipient refuses to complete the DAST-10, the applicant or recipient shall be ineligible for cash assistance.

- (c) If reasonable suspicion of illegal use of controlled substances exists, the applicant or recipient shall submit to a drug test at the Division of Social Services' expense with the Division of Social Services' contracted vendor, as required by G.S. 108A-29.1.
- (d) If an applicant or recipient declines to submit to the drug test or fails to complete the drug test, the applicant or recipient shall be ineligible for cash assistance.
- (e) If an applicant or recipient substitutes, adulterates, or tampers with the drug testing, the applicant or recipient shall be ineligible for cash assistance.

*History Note: Authority G.S. 108A-29.1; 143B-153;  
Eff. June 1, 2015.*

**10A NCAC 73A .0105 TECHNIQUES AND METHODS**

- (a) The analysis of drug test specimens shall be conducted by a laboratory licensed by the NC Department of Health and Human Services and certified by the Substance Abuse and Mental Health Services Administration (SAMHSA). Licensed and certified laboratories are listed in the Federal Register, which is incorporated by reference, including subsequent amendments and editions and at <http://www.samhsa.gov/workplace/lab-list>, which is incorporated by reference, including subsequent amendments and editions.
- (b) Controlled substances or metabolites of a controlled substance shall be tested and analyzed using approved analytical techniques or methods, as follows:
- (1) immunoassay;
  - (2) thin-layer chromatography;
  - (3) gas chromatography;
  - (4) mass spectroscopy;
  - (5) high performance liquid chromatography; or
  - (6) spectroscopy.
- (c) Results of the drug test analysis shall be expressed as equivalent to nanograms by weight of a controlled substance or metabolite, or a controlled substance per milliliter.
- (d) The drug test threshold values shall meet the cutoff levels contained in the Mandatory Guidelines for Federal Workplace Drug Testing Programs as adopted by SAMHSA and identified in the chart below:

Initial Test Analyte	Initial Test Cutoff Concentration	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana Metabolites	50 ng/mL	THCA1	15 ng/mL
Cocaine Metabolites	150 ng/mL	Benzoyllecgonine	100 ng/mL
Amphetamines AMP/MAMP	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL 250 ng/mL
Opiate Metabolites Codeine/Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL 2000 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL

*History Note: Authority G.S. 108A-29.1; 143B-153;  
Eff. June 1, 2015.*

**10A NCAC 73A .0106 CONFIDENTIALITY**

- (a) A drug test given under this Section shall be confidential and consistent with the HIPAA Privacy Rule appearing in 45 CFR Parts 160, et seq., which is incorporated by reference, including subsequent amendments and editions, and State Law.
- (b) The drug test results, medical history, or medications taken by the applicant or recipient shall be a confidential record unless its disclosure is otherwise authorized by law or by written consent from the applicant or recipient.
- (c) The county departments of social services shall implement administrative, physical, and technical safeguards to maintain confidentiality of drug test results.

*History Note: Authority G.S. 108A-29.1; 143B-153;  
Eff. June 1, 2015.*

**10A NCAC 73A .0107 REASONABLE ACCOMODATION**

Reasonable accommodations shall be provided to allow an applicant or recipient with disabilities to comply with the drug testing requirement in accordance with the Americans with Disabilities Act of 1990, as amended in 2008 (P.L. 110-325), which is incorporated by reference, including subsequent amendments and editions. A copy of the Act may be obtained on the United States Department of Justice, Civil Rights Division at <http://www.ada.gov/pubs/adastatute08.htm>.

*History Note: Authority G.S. 108A-29.1; 143B-153;  
Eff. July 1, 2015.*

**10A NCAC 73A .0108 NOTICES**

- (a) At application and at redetermination of eligibility for cash assistance, each applicant or recipient shall receive notice of rights and responsibilities, hearing and appeal rights, and conditions for a retest.
- (b) At the time of testing and upon receipt of a confirmed positive drug test result, the applicant or recipient shall receive notice of rights and responsibilities, hearing and appeal rights, and conditions for a retest.
- (c) Upon receipt of a confirmed positive test result, the county department of social services shall refer the applicant or recipient for substance abuse information to a "qualified professional in substance abuse" as defined in Rule 10A NCAC 27G .0104(19), which is incorporated by reference, including subsequent amendments and editions. A copy of the Rule may be obtained at <http://reports.oah.state.nc.us/ncac.asp>.

*History Note: Authority G.S. 108A-29.1; 108A-79; 143B-153;  
Eff. July 1, 2015.*