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Background Paper Drug Testing and Conditional Treatment for Welfare Recipients

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1. Background

1.1 Drug testing and conditional treatment for welfare recipients in Ontario

During the last provincial election, the government of Ontario indicated it would introduce legislation that would allow mandatory drug testing and treatment of welfare recipients. The purpose of the testing is described in the pre-election document entitled "Blueprint" as follows: "It's common sense - you can't get off welfare and hold a job if you're addicted to drugs. That's why we'll provide mandatory treatment for welfare recipients who use drugs. We'll help them get off drugs, off welfare and back on their feet again. Those who refuse treatment or who won't take tests on request will lose their benefits."

Although the policy has not been specified in detail, it might include the following components: 1) mandatory drug testing as a condition of receiving welfare, 2) treatment as a condition of receiving welfare, and 3) abstinence from drugs as a condition of receiving welfare. In this document, the major scientific and practical issues related to drug testing of welfare recipients are reviewed.

1.2 Prevalence of drug use

Data on the prevalence of drug use are based on self-reports from telephone surveys, which likely underestimate the true prevalence. Alcohol is the most commonly used drug, with about 80% of Ontario adults drinking in the past year. In contrast, the 1998 survey of Ontario adults indicated that 8.6% used cannabis and 4.6% used cocaine in the past year (Adlaf et al., 1999). Opiates are much less common, used by less than 1% of the population.

Little information is available on the proportion of Ontario welfare recipients that use or abuse drugs or alcohol. Research in the United States generally shows that rates of use and abuse among the welfare population are comparable to those not receiving benefits (Grant and Dawson, 1996), although elevated rates of substance abuse problems among women on welfare have been found in some studies (Center on Addiction and Substance Abuse, 1994). An Ontario study found that those on subsidized housing had lower rates of substance use than those without subsidized housing (Boyle et al., 1990).

1.3 History of drug testing and conditional treatment

Drug testing through urinalysis was first used on military personnel returning from the Vietnam War and people receiving treatment for drug abuse problems. Since then, drug testing has been used on a wide variety of populations, including convicts, parents, children, pregnant women, and employees. Drug testing is most prevalent in the United States, where drug enforcement and punishment are primary strategies to address drug use in society. In Canada, where prevention and treatment are emphasized, drug testing is less common and some types of testing have been successfully challenged in the courts.

Conditional treatment, often called constructive confrontation, was first introduced in workplaces in the 1940's. Employees with alcohol problems were identified by supervisors and required to receive substance abuse treatment or face possible dismissal if they refused treatment. Since then, practices have changed as employers now only identify work performance problems (not alcohol problems per se) of employees and can not dismiss employees if they don't receive treatment. Today most Canadian companies focus more on voluntary treatment than supervisor referrals.

1.4 Drug testing of welfare recipients in other jurisdictions

Mass drug testing of welfare recipients is not being conducted in any province in Canada. In Nova Scotia, parents with a history of addiction may be subject to mandatory drug testing, which can be ordered through the courts (Fraser, 1998). In Oregon, drug tests can be ordered for selected recipients (Kirby et al., 1999), and the need for treatment is identified by three means: 1) validated drug screening tests, 2) through observation by the case manager, and 3) failure by the recipient to comply with an agreed employment plan. Drug testing is sometimes used for clients who deny a problem and refuse referral to treatment when a problem appears to be obvious. Mass drug testing was considered in Oregon but rejected due to the costs, lack of utility and the potential to undermine the relationship between the client and the case manager. As well, drug testing is not uniformly administered in each of Oregon's 15 districts and one district refused to do any testing.

2. Strengths of mandatory drug testing and conditional treatment

2.1 Effects of treatment on employability

Generally, substance abuse groups that receive treatment have higher rates of employment after treatment than before treatment (Center for Substance Abuse Treatment, 1997). Therefore, requiring welfare recipients to obtain treatment may lead to subsequent improved rates of employment among this group.

2.2 Mandatory or conditional treatment

There is evidence in the literature that conditional treatment can produce positive outcomes in terms of substance abuse. For example, employees who are on the verge of losing their jobs due to performance problems related to substance abuse have shown improvements when offered treatment (Macdonald et al., 1997). Similarly, court diversion programs where DWI offenders have been offered treatment have produced better results than punishment (Wells-Parker et al., 1995).

2.3 Treatment enrollment, treatment compliance and treatment completion

Mandating clients to attend treatment as a condition of receiving social assistance would likely increase the number of drug and alcohol users who enroll in treatment programs. Rates of treatment compliance and completion also could be expected to increase for those who enroll under these circumstances.

3. Limitations of mandatory testing and conditional treatment

3.1 Limitations of drug tests

Urinalysis can only be used to determine whether drug metabolites are present in the urine. The tests can not measure impairment (i.e., deteriorated performance), habituation, dependence or addiction.

Drug tests are generally conducted to detect five classes of drug metabolites: cannabis, cocaine, opiates, benzodiazepines and amphetamines. Since different drugs are eliminated from the body at different rates, drug tests can detect use of some drugs more readily than others. For example, cannabis use can be detected if it was used as long ago as three weeks before the test, whereas cocaine use can only be detected if use occurred within a few days before the test. Other substances, such as sedatives, alcohol, hallucinogens and solvents, which have the potential to affect employability, are not routinely included in standard drug tests or are difficult to detect. Drug tests do not address the full range of drugs that could interfere with employability, and do not detect the drug most likely to cause work problems, namely alcohol.

3.2 The need for clinical assessments

Since the tests can not be used to distinguish dependence from occasional use, comprehensive clinical assessments are still needed to diagnose the presence of a substance use disorder. In fact, 70% of people who use drugs are gainfully employed. A comprehensive assessment should include a thorough substance use history, a full psychosocial history and a medical examination (and associated tests) to determine if there are signs of illness or compromised functioning that might be related to substance use. Collateral information from key informants (family, friends) is useful for verifying client self-reports. Confidentiality and the absence of adverse consequences also improve the accuracy of self-reports (Donovan & Marlatt, 1988).

3.3 Variations in the effects of different drugs

The pharmacological properties, addictive and long term harmful effects vary considerably among the drug classes that are tested. For example, cannabis is not highly addictive and use will usually not affect employability. In contrast, cocaine is more addictive and long term use could interfere with one's employability, although most people who use cocaine do not become dependent. Also, most people who use drugs do not use them at work (Newcomb, 1994).

3.4 Negative consequences of conditional welfare benefits

Providing welfare on the condition that clients are drug free or participate in a treatment program could result in negative societal consequences, such as increased crime and social problems. A study in the United States examined the impact of eliminating disability benefits (Goldstein et al., 2000). While

some people went back to work, others increased their criminal activities. Those who suffered the most had pre-existing physical and mental disabilities. This latter group became a larger burden on the health system as many of them became sicker. Also, clients who have no desire to change their behavior may be disruptive to the treatment process and undermine the efficacy of treatment for other individuals. This is particularly the case where therapy is offered on a milieu or group basis, which could have a negative effect on treatment participation and completion of non-mandated clients in these programs.

About 70 per cent of substance users have at least one relapse in the first year after completing treatment (Annis et al., 1998). A policy that demands abstinence from drugs as a condition of receiving welfare likely will not be effective since relapse is so common. Rather, such a policy may result in negative societal consequences as described above.

3.5 Disruption to the client and case manager relationship

Case managers for welfare recipients can be instrumental in assisting clients to obtain employment. Case managers are generally most effective when they build a trusting relationship with the client. Drug testing has the potential to undermine this relationship by creating an adversarial process, which could be counterproductive to the joint goal of obtaining employment. Furthermore, many factors such as physical and mental health problems, lack of job skills, perceived discrimination, and lack of transportation are major barriers for employment (Danzinger et al., 1999). A disproportionate emphasis on drug use as a factor for not obtaining employment can also be counterproductive for employability.

3.6 Human rights issues

Drug testing and mandatory treatment of welfare recipients could be challenged on legal grounds. Under the Ontario Human Rights code, alcohol and drug dependence is considered a handicap. Failure to provide welfare benefits on the basis of substance abuse may constitute discrimination. Also, a legal challenge could be brought under the Charter of Rights and Freedoms against both mandatory drug testing and mandatory treatment.

3.7 Cost issues

Various financial costs will be incurred in order to implement the proposed changes. Increased costs are associated with conducting the drug tests, increased clinical assessments and increased substance abuse treatment. The total costs increase as a function of the number of people who test positive.

Any drug testing regime must include procedural safeguards to ensure accurate findings. The process must be rigorous and adhere to widely recognized forensic standards including proper qualifications of the staff, collection of samples under direct observation, chain of custody, documentation and regular inspections (Kapur, 1994). As well, positive results should be reviewed by a Medical Review Officer, who must be able to discuss and interpret positive test results with the client. All positive test results must be re-confirmed by more advanced and costly methods, usually gas chromatography and mass spectrometry. These procedures will cost approximately \$2,000 for each positive test.

As previously indicated, clinical assessments are still needed for those who test positive in order to determine whether treatment is required. These assessments along with a possible need for increased capacity of treatment for clients with substance abuse problems will produce additional costs to the health care system.

4. Conclusion

Drug testing has limited utility in terms of determining the need for treatment and increasing employability of welfare recipients. The tests cannot be used to determine substance abuse and do not address the full range of drugs that could interfere with employability. Costly clinical assessments will be required to assess substance dependence problems, and the current treatment system does not have the capacity to address increased demand for treatment services. Drug testing also undermines the client-case manager relationship, which will have a negative impact on the goal of employability. While there is some evidence that substance abuse treatment can increase employability for those with alcohol or drug problems, the issue of conditional treatment has drawbacks, such as potential negative societal consequences, disruptions to the treatment population and additional financial costs. Conditional welfare, based on abstinence from drugs has similar drawbacks. Moreover, the denial of benefits to those with substance abuse problems may produce increases in crime, health problems, and other societal costs.

Recommendations

1. We do not recommend drug testing of welfare recipients.
2. We do not recommend removal of welfare benefits for people who refuse treatment or relapse.
3. Individuals who use drugs should have the same access to welfare benefits as other residents, irrespective of whether they need or receive treatment. Substance abuse treatment should be available to welfare recipients and other socially disadvantaged individuals. The need for treatment should be determined through clinical assessments and a strategy for treatment should be agreed upon jointly by the client and case manager.

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Fiscal Considerations With Respect to Mandatory Drug Testing for Welfare Recipients

General Considerations:

This discussion is written in support of the Centre for Addiction and Mental Health's Position Paper on Mandatory Drug Testing for Welfare Recipients. It assumes that the any government which introduced such testing would rely on urine specimens tested for the presence of psychoactive substances and that the collection, testing and interpretation of results would be done in a way which is most likely to withstand a legal challenge to this process. It does not address other issues, such as human rights violations, which may also result in legal challenge.

The widely accepted standards for drug testing, and those which have been most thoroughly tested in the courts, are those established by the United States Department of Transport (USDOT) for safety-sensitive employees. The purpose of the USDOT drug testing is to function as a deterrent to drug or alcohol use. This is different from the stated goal of the Ontario government of identifying individuals to be referred to mandatory treatment. Nevertheless, the USDOT standards for collection, testing and interpretation will serve as a guide to the following discussion of issues to be considered. A more complete reference to the USDOT standards can be found in "The Medical Review Officer's Manual: MROCC's Guide to Drug Testing" (ed. Swotinsky, R.B. & Smith, D.R., 1999, published by OEM Press, Beverly Farms, MA for the Medical Review Officer Certification Council).

Collection:

Urine samples to be tested for the presence of drugs must be collected in a way that ensures respect for the donor's privacy while taking safeguards against interference or error in the process. At times this may require direct observation of the provision of the sample. More usually the donor will be provided with the opportunity to provide the sample in a private setting where the possibility of interference with the process is limited. Such steps as checking the temperature of the urine, turning off the hot water in the donation location, bluing the water, etc. all limit the possibility of tampering with the sample or the process. In addition, collection of the samples on a random frequency with limited donor notice period will increase the effectiveness of the process. There would be a significant cost attached to all samples, negative and positive, as a result of the facility and staff costs of sample collection. However, failure to collect the samples in the appropriate method will introduce opportunities for the donor to circumvent the process rendering the meaningless or difficult to interpret.

Transportation and Handling:

From the moment of collection and throughout the transportation and handling of samples as well as the testing and interpretation of results, there must be no possibility for samples or results from different donors to be confused. The prevention of such errors is accomplished by establishing a carefully maintained and documented chain of custody process. The chain of custody process has been well established by the USDOT standards and should include such measures as individual packaging of samples in containers sealed with tamper-proof tape, a complete documentation process and other measures. There would be costs attached to all samples collected, both negative and positive, for the materials and staff training required to maintain a complete chain of custody. Failure to maintain a chain of custody would likely prevent any action taken on the results of testing from withstanding a legal challenge.

Laboratory Testing:

Laboratory testing of samples would be required to be done in a manner that eliminates, as much as possible, the risk of technical or human error. There are internationally recognized certification standards by which a laboratory facility can be chosen to reduce the risk of human error in the process. In terms of technical error, all laboratory testing procedures have a defined rate of false-positive and false-negative results when compared to a gold standard method. To reduce the possibility of results being incorrectly reported as positive samples reported as positive on a screening test should be retested using the gold standard method (in this case, gas chromatography-mass spectroscopy or GC-MS). There would be a certain cost associated with applying a screening test to all samples, both negative and positive, and a significant cost with performing confirmatory testing on all samples which screen positive. The exact cost of the

screening tests will be dependent on the number of different substances being screened. In addition, there may be laboratory costs for additional tests done to detect the presence or absence of attempts by the donor to invalidate the process through adulteration or dilution of the sample.

Interpretation of Results:

Many circumstances may arise whereby a donor's urine sample will test positive for a substance which may either represent appropriate use of a substance for a legitimate medical purpose or represent use of a psychoactive substance for other reasons. For this reason there is a need for an independent review of the results by an appropriately trained physician who neither represents the laboratory, the donor nor the agency requiring the testing. This person is typically referred to as the Medical Review Officer (MRO) and there is a widely recognized training and certification process in place for the MRO. Generally the MRO should receive copies of all results including documentation of the chain of custody process. The MRO is responsible for reviewing and approving the process for all negative samples before the result is released to the agency requiring the testing. For positive samples, the MRO must contact the donor to verify whether or not the result is due to a legitimate medical purpose (and there are legally tested standards for this determination) prior to the release of the result to the agency. Typically, medically justified results are reported as negative to the agency by the MRO to protect the donor's privacy around medical conditions. The interpretation of results by an MRO will result in a cost attached to all samples to account for the time and expertise of the MRO.

Expert Involvement:

The involvement of experts from the laboratory or the MRO in legal challenges to the process or decisions made on the results may result in significant costs over and above those involved described above.

Summary

The institution of mandatory drug testing for welfare recipients would be a costly endeavor. Beyond the capital and staff training costs of establishing such a process, there would be significant on-going costs for laboratory services and results interpretation. Failure to invest in this process adequately would result in an increased likelihood of inability to act on the results of the drug testing (either because the results were rendered invalid or as a result of legal challenge). On the other hand, it is not difficult to estimate these costs as being substantial. If the costs of additional technical and expert fees attached only to positive results are averaged over all samples collected a conservative estimate of cost would be \$40-60 per sample. Again estimating conservatively, if as many as 2-3% of samples are positive (which would be a higher rate than often seen in workplace testing) the cost per positive sample would be in excess of \$2000. In considering these cost estimates it is important to bear in mind that not all individuals who test positive for substance use will have problematic substance use requiring treatment so the cost per individual appropriately referred into treatment will be even higher.