

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

May 1, 2013

The Honorable Jane Oates
Assistant Secretary
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Assistant Secretary Oates:

On April 16, 2013, the Human Resources Subcommittee of the Committee on Ways and Means held its second hearing on the implementation of the unemployment insurance reforms contained in P.L. 112-96, *The Middle Class Tax Relief and Job Creation Act of 2012*. Included in that law was a provision to allow the screening and testing of unemployment benefit claimants in an “occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary of Labor).”

According to the Unified Agenda for Regulatory Actions, the Administration expects the notice of proposed rulemaking (NPRM) required by P.L. 112-96 to be issued in the coming weeks. In anticipation of that release, we wanted to express our continued support for this provision and encourage the Department of Labor to take a broad interpretation of its scope so that states can use this new authority to help prepare more unemployed workers to successfully return to the workforce.

According to the most recent survey by the Society for Human Resources Management (SRHM) in 2011, over “57 percent of the survey participants’ organizations require all job candidates to take a pre-employment drug test [and] 14 percent of respondents test applicants for safety-sensitive positions and when required by state law.” This overwhelming response suggests to us that there are a significant number of occupations that “regularly conduct drug testing.” The survey’s principal investigator said “The poll results show that drug testing may yield a high return on investment by creating a more stable, productive and safe workplace.” This statement is supported by a recent Bureau of Labor Statistics report showing that over the last 19 years (a

time period when pre-employment drug testing has expanded) the number of fatal workplace injuries has declined.

This view that a majority of employers require pre-employment drug testing was strongly supported by testimony the Human Resources Subcommittee received during our April 16th hearing. Several expert witnesses provided additional evidence and support for the screening and testing of a broad range of UI claimants as a work readiness strategy to assist the unemployed. For example, Larry Kidd, Principal/CEO of Reliable Staffing Services and RSS Professional, LLC testified:

“We do drug testing...between 15 and 20 percent [test positive for drugs]...[a percent] I would not consider that negligible. And 80 percent of our clients require drug testing. And the biggest concern, of course, was someone who tests positive is if they go out onto the workforce and are working and they injured somebody, that's a problem not only for you but for the business....

We do see a real issue with the drug -- with the whole drug situation. As part of the Jobs Ohio board of directors, I had a small round table of business people in our local community. And we had two employers that were 1,200 and 1,500 each, two of the largest employers in the community. And we asked them, what is the biggest problem that you face? I thought it might be workers compensation or even unemployment, but it wasn't, it was drugs. We can't get people to work. And we can't keep them once they're here because they will continue to fail a drug test.”

State Senator Tommy Williams of Texas, the author of State legislation implementing drug screening and testing using the new Federal authority, testified:

“I would say that if you're abusing illegal drugs or if you're abusing prescription drugs, and I would point out that that is a huge problem all over the country. You're not ready and able to go back to work so you're not employable and it's important for those people and for their families and really for the future of our country that we identify those folks and they get in a program where they can get straightened out.

The largest refinery in the Western Hemisphere was recently built in my Senate district in Port Arthur, Texas. And when I visited there four years ago, when that plant was under construction, I heard over and over again. We want to hire local folks, but we can't find people to pass -- that can pass the drug test.

And we have that all over the state.... And so I would submit that it's a big problem. And this is something that we need a national policy to address this.”

As more States begin to enact provisions to screen and test UI recipients for drugs, it is important that the implementing regulations and guidance support the legislative intent, which is that this provision be broadly applied so that more UI recipients can successfully return to the workplace.

We look forward to seeing the NPRM and working together to help more unemployed Americans get back to work.

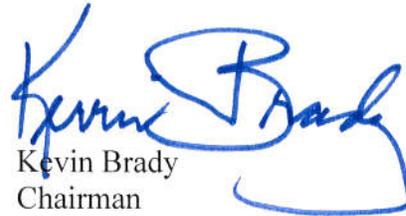
If you have any questions concerning this matter, please feel free to contact Matt Weidinger or Anne DeCesaro of the Human Resources Subcommittee staff at (202) 225-1025.

Thank you for your time and we look forward to your response.

Sincerely,



Dave Reichert
Chairman
Subcommittee on Human Resources



Kevin Brady
Chairman
Subcommittee on Health



Todd Young
Subcommittee on Human Resources



Jim Renacci
Subcommittee on Human Resources



Mike Kelly
Subcommittee on Human Resources



Tom Reed
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Tim Griffin
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Charles Boustany
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