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## PURPOSE

Michigan Department of Health and Human Services (MDHHS) employees may not work under the influence of drugs and/or alcohol, or possess, procure, consume, or sell drugs and/or alcohol on state property or property used or leased by the state, including vehicles.

Employees violating the department work rule related to the use of alcohol and/or drugs will be in violation of this policy and subject to discipline up to and including dismissal.

Human Resources may notify the police if there is reason to believe that an employee is in possession of illegal drugs or non-prescribed controlled substances, has sold or provided these substances on State property or property used or leased by the state.

## DEFINITIONS

**Drug and Alcohol Testing Coordinator (DATC)** is the person(s) in each department designated as having responsibility for administering the testing program and making decisions regarding pre-employment, pre-appointment, reasonable suspicion, follow-up, random selection and post-accident testing.

**Drugs Included for Testing** are Marijuana (THC); Cocaine; Amphetamines (including methamphetamine and amphetamine); Phencyclidine (PCP); and Opiates (including heroin, morphine, and codeine).

The use of medical marijuana under state law will not be an acceptable medical explanation for a positive drug test. It is the responsibility of the employee to inform the supervisor if incidental use of prescription or over-the-counter drugs may impair their on-the-job effectiveness.

### Types of Tests:

- **Pre-employment test** is for drugs only, conducted when a conditional offer of employment has been made to an applicant who is not currently a state employee.
- **Pre-appointment test** is for drugs only, conducted when a current employee in a non-test designated position has been conditionally selected for a test-designated position.

- **Random test** is a drug and/or alcohol test of an employee in a test-designated position whose name has been drawn at random from the pool of employees occupying test-designated positions.
- **Reasonable suspicion test** is a drug and/or alcohol test of an employee authorized by the DATC based on a belief drawn by a trained supervisor from specific objective facts and reasonable inferences drawn from those facts that the employee is using or may have used drugs or alcohol in violation of the department work rule, collective bargaining provision or Civil Service Rule 2-7, whichever is applicable.
- **Post-accident test** is a drug and/or alcohol test of a test-designated employee where there is evidence that the employee may have caused or contributed to a serious work accident as authorized by the DATC.
- **Follow-up test** is an unscheduled drug and/or alcohol test conducted when, within the previous 24-month period, an employee voluntarily disclosed drug or alcohol problems, entered into or completed a rehabilitation program for drug or alcohol abuse, failed or refused a pre-appointment drug test, or was disciplined for violation of the department work rule, collective bargaining provision or Civil Service Rule 2-7, whichever is applicable. Follow-up testing is limited to no more than six unscheduled tests within any twelve-month period.

**Conviction** is a finding of guilt (including a plea of guilty or nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

**Criminal drug statute** involves the manufacture, distribution, dispensing, use, or possession of any controlled substance.

## POLICY

All state classified employees must comply with Civil Service Rule 2-7: Drug and Alcohol Testing. Collective bargaining agreements covering employees in certain bargaining units outline similar drug and alcohol testing provisions.

As conditions of employment, all employees must:

1. Abide by the terms of this policy.

2. Comply with the MDHHS and Civil Service Commission's drug and alcohol testing program.
3. Comply with the MDHHS's work rule regarding criminal acts, including immediately reporting any alcohol and/or drug related criminal charge or conviction. Please see procedure in this item for expectations of employee notice for any conviction under a criminal drug statute.

## PROCEDURE

### Supervisor

A trained supervisor:

- Observes the appearance, behavior, speech or body odors of an employee as indicators of possible prohibited conduct.
- Identifies and documents the reasonable suspicion observations on the [Supervisor's Report of Reasonable Suspicion](#) posted on the Office of the State Employer (OSE) website/Forms/Other Forms.
- Contacts the second line supervisor or available supervisor within the work area to also assess the situation if available.

### Supervisor or Second Line Supervisor

If the additional supervisor observes the appearance, behavior, speech or body odor and assesses that the employee may be in violation of the MDHHS drug and alcohol policy, then:

- Each supervisor must immediately sign statements and fill out the [Supervisor's Report of Reasonable Suspicion](#) posted on the Office of the State Employer (OSE) website/Forms/Other Forms
- Contact the DATC, or designee, to review his/her documented observations.

For **human services** operations the supervisor (whether immediate, working, or in charge) should contact the DATC at 517-335-3521 or 517-241-3380 during normal working hours. The after-hours pager number is 517-388-0512.

For **health services central office** contact the DATC at 517-335-3455; **hospitals or centers** contact the applicable HR Officer.

### **Drug and Alcohol Testing Coordinator (DATC)**

Using the [Supervisor's Report of Reasonable Suspicion](#), the DATC assesses the need to require the employee to submit to a drug and/or alcohol test.

Send an employee for testing only upon the approval of the DATC.

### **Supervisor or Second Line Supervisor**

Once the DATC's approval to proceed is given, the supervisor explains to the employee, in a confidential manner, that he/she is being required to accompany the supervisor, or his/her designee, to a collection site to be tested for either alcohol, drugs, or both as determined by the DATC based on observations reported and the possible causes for those behaviors.

The employee shall be relieved of duty and transported for testing. If an employee attempts to drive, the supervisor will contact the police. The employee will be relieved from duty for the remainder of his/her shift **only** if he/she tests positive.

The supervisor will complete Step 1 of the U.S. Department of Transportation/Office of Drug and Alcohol Policy and Compliance/ Non-DOT Custody and Control Form and/or the Non-DOT Breath Alcohol Testing Form and provide the form(s) to the employee. The employee will need picture identification. Two members of management will transport the employee to the clinic to be tested. Should any unusual circumstances arise throughout the testing process, the supervisor will call the DATC for guidance.

**Note:** Work areas should assure that there are forms on hand; if not, forms should be ordered from the Office of Human Resources.

If testing included taking a urine sample to determine use of controlled substances, the supervisor will immediately place the employee on leave credits until the test results are reported to the DATC.

If an employee tests positive the supervisor shall advise the employee not to drive due to possible impairment. The written notice of suspension shall document the warning to the employee not to drive.

Upon return to the work site, the supervisor shall contact the employee's emergency contact on file to arrange for alternate transportation home. If the emergency contact on file cannot be

reached, the employee shall arrange for alternate transportation home. If the employee refuses and attempts to drive home, the supervisor will contact the police.

**Follow-up:** The supervisor will contact the DATC to receive any further instructions.

### **Criminal Conviction and Drug Free Workplace**

An employee is responsible for complying with the department's work rule related to the reporting of any felony charge or misdemeanor and felony convictions. If that crime is a criminal drug statute the following procedure applies to the employee and human resources.

For employees identified to participate in reasonable suspicion testing for drugs or alcohol, the specific results of testing will determine what administrative action the department will initiate, in accordance with Civil Service Rule 2-7: Drug and Alcohol Testing, or the applicable Collective Bargaining Agreement Article on Drug and Alcohol Testing.

## **RESPONSIBILITY**

### **MDHHS Employee**

An employee must notify the on-duty supervisor at or before the beginning of their next scheduled shift of any felony criminal charge or misdemeanor or felony conviction. An employee must also notify their supervisor and DHHS Human Resources, in writing within five calendar days of any conviction under a criminal drug statute for a violation.

### **Human Resources**

Within 30 days of learning of employee's conviction either:

- Take appropriate corrective action, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794).
- Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved by a federal, state or local health, law enforcement, or other appropriate agency (§1405.225).

- Notify all federal agencies engaged in a federal award associated with the employee about the employee's conviction, as required by §1405.205(c)(2).

The notification must meet all the following criteria:

- Be in writing.
  - Include the employee's position title.
  - Include the identification number(s) of each affected award.
  - Sent within ten-calendar days after learning of the employee's conviction.
  - Sent to every federal agency on whose award the convicted employee was working.
  - Sent to every awarding official or his or her official designee, unless the federal agency has specified a central point for the receipt of the notices (§1405.225).
- Notifies the United States Department of Health and Human Services within ten calendar days of notification of an employee's conviction, as required by §1405.225.
  - The employee's agency is responsible for providing the information about the various federal grants that the convicted employee was working on at the time of conviction.

## LEGAL RESOURCES

Applicable Collective Bargaining Agreement Article on Drug and Alcohol Testing.

Civil Service Rule 2-7: Drug and Alcohol Testing - Civil Service Rules

MDHHS Work Rule #19 – MDHHS Departmental Work Rules

Drug and Alcohol Testing Coordinator – MDHHS 517-335-3521 or 517-241-3380; after-hours 517-388-0512.

Office of State Employer (OSE) Supervisor's Report of Reasonable Suspicion Form – OSE 09/2013