

## CHAPTER 1. GENERAL

- 1-1 Purpose. The Employee Assistance Program (EAP) Handbook contains legislative and regulatory provisions, as well as the Department of Housing and Urban Development's (HUD) policy and program requirements pertaining to prevention, treatment, and rehabilitation of employees with respect to alcoholism, drug abuse, and other personal-medical-behavioral problems.
- 1-2 Coverage. The EAP covers all HUD employees regardless of type or length of appointment. The EAP may also be used by the immediate family members of employees with problems and employees with family members who have problems. EAP services shall be made available to all employees at each HUD office. Outstationed employees shall have access to EAP services at the nearest HUD Field Office.
- 1-3 Background. The regulatory requirements in Title 5 of the Code of Federal Regulations (CFR) Part 792, mandate that agencies establish appropriate prevention, treatment, and rehabilitation programs for Federal employees with alcohol and/or drug abuse problems. Furthermore, Public Law 79-658 authorizes agencies to provide for the physical and mental fitness of Federal employees. These authorities form the basis for the existence of the EAP. Comprehensive EAPs must address alcohol, drug abuse, and emotional/behavioral problems.
- 1-4 Authorities. The following is a list of EAP-related legislative authorities, regulations, etc.:
- A. Public Law 79-658, an Act to provide for health programs for Government employees.  
  
Authorizes Federal agencies to establish health services programs to promote and maintain the physical and mental fitness of employees of the Federal Government.
  - B. Public Law 91-616, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.  
  
Gives OPM responsibility for developing and maintaining, in cooperation with the Department of Health and Human Services (HHS) and with other Federal agencies and departments, appropriate prevention, treatment, and rehabilitation programs and services for alcoholism and alcohol abuse among civilian employees.
  - C. Public Law 92-255, the Drug Abuse and Treatment Act of 1972.  
  
Gives OPM responsibility for developing and

maintaining, in cooperation with HHS and with other Federal agencies and departments, appropriate prevention, treatment, and rehabilitation programs and services for drug abuse among employees.

- D. Public Law 93-112, the Rehabilitation Act of 1992 and Section 1613.704 of Title 29, Code of Federal Regulations.

Requires an agency to make reasonable accommodations to the known physical or mental limitations of a qualified disabled applicant or employee unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of its program. A reasonable accommodation is an adjustment made to a job and/or the work Environment that will enable the qualified disabled applicant or employee to perform the duties of the position.

- E. Public Law 93-282, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974.

Amends both Public Laws 91-616 and 92-255 to bring the confidentiality requirements of each into conformance with the other.

- F. Public Law 93-579, the Privacy Act of 1974.

This Act states that "no agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written consent by, or with the prior written consent of the individual to whom the record pertains...."

- G. Public Law 95-454, the Civil Service Reform Act of 1978.

This Act states that ". . . each performance appraisal system shall provide for . . . (5) assisting employees in improving unacceptable performance; and (6) reassigning, reducing in grade, or removing employees who continue to have unacceptable performance."

- H. Public Law 96-180, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979.

Amends Public Law 91-616 to authorize agencies to extend program services where feasible to families of employees who have alcohol problems and the employees with family

members who have alcohol problems.

- I. Public Law 96-181, the Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979.

Amends Public Law 92-255 to authorize agencies to extend program services where feasible to families of employees who have drug problems and to employees with family members who have drug problems.

- J. Public Law 99-570, the Federal Employee Substance Abuse Education and Treatment Act of 1986.

This Act reiterates Congressional concern for the prevention of illegal drug use and the treatment of Federal employees who use drugs.

- K. Title 5, Code of Federal Regulations (CFR) Part 792, Federal Employees Health and Counseling Program.

Provides the regulatory requirements for alcohol and drug abuse programs and services for Federal civilian employees.

- L. Title 42, CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records.

Provides specific requirements for maintaining the confidentiality of client records, i.e., diagnosis, treatment, and rehabilitation records. Prohibits the disclosure of these records or information without the written consent of the employee.

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- M. Executive Order (E.O.) 12564, Drug-Free Federal Workplace.

Guidance provided by the President's E.O. and by OPM in developing a plan for achieving a drug-free workplace.

- N. Comptroller General Decision B-187074 of November 7, 1977, Use of Appropriated Funds.

Authorizes the use of appropriated funds for the procurement of diagnostic and preventive psychological counseling services for employees. Such services should not include treatment, but rather problem identification, referral for treatment or rehabilitation and follow-up to aid an employee in effective readjustment on the job during and after treatment.

- O. Office of Management and Budget (OMB) Circular A-76,

Contracting for Employee Counseling Service.

Provides that, where needed, services can be provided by the private sector. If there are no overriding factors requiring in-house performance, the most economical means of obtaining the services should be used.

1-5 Exceptions to Handbook Provisions. The Director, Office of Human Resources, is authorized to make exceptions to the provisions of this Handbook, as long as they are consistent with applicable law, presidential directive, regulations and after appropriate labor management obligations have been met.

1-6 Definitions

- A. Personal-Medical-Behavioral Problems. These are problems which cover a broad range of physical and/or psychological difficulties that may produce a variety of symptoms such as alcoholism, emotional disturbances, or physical illness. Personal problems are generally associated with family, legal, or financial matters.
- B. Troubled Employee. A term used to describe an employee with a personal, medical, or behavioral problem whose job performance and/or conduct is impaired as a result of his/her problem.

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- C. Substance Abuse (alcohol and/or drug). Substance abuse is the repeated use of any drug to the point where it seriously interferes with health, economic status, or social functioning. Substance abuse is not a single event, but rather a series of events that form a pattern. Abuse may or may not lead to addiction (dependency). A combination of physiological and psychological factors, plus the substance abuser's personal medical history and the nature of the drug or drugs used, are all contributors.
- D. Disabled. Shall mean "qualified handicapped individual" or "individual with handicaps" as defined in the Rehabilitation Act of 1992, as amended.
- E. Reasonable Accommodation. Reasonable accommodation applies to the adjustment made to a job and/or work environment that enables a qualified disabled employee or applicant to perform the duties of that position. An agency shall make reasonable accommodations to the known physical and mental limitations of a qualified disabled employee or applicant unless the agency can demonstrate that

the accommodation would impose an undue hardship on the operation of its program.

F. Disabled person. One who:

1. has a physical or mental impairment which substantially limits one or more of such person's major life activities;
2. has a record of such an impairment; or
3. is regarded as having such an impairment.

G. Qualified Disabled Person. One who, with respect to employment, is a disabled person who, with or without reasonable accommodation, can perform the essential functions of the position without endangering the health and safety of the individual or others.

H. Disabling Condition. A physical or mental impairment, as assessed by medical and/or health experts, which substantially limits one or more major life activities.

I. Confidentiality. The EAP is a private and confidential program. Federal law requires that records regarding identity, diagnosis, prognosis, or treatment of any employee in an EAP not be disclosed without the written consent

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of the employee except in certain emergencies to bona fide medical personnel, or if authorized by court order. The prohibition against disclosure applies to All persons having access to the records or information.

J. Consortia. A cooperative program in which a number of different agencies combine to contract out for the EAP services for the employees of each agency.

K. Management Referral. An employee referred to the EAP by his/her manager/supervisor as a result of a perceived personal problem which may be affecting or contributing to a performance or conduct deficiency.

L. Self Referral. An employee who voluntarily seeks assistance through the EAP to resolve his/her personal problems.

M. Family Member. A family member, for the purposes of the EAP, means the following; but not limited to:

1. The spouse;
2. Children, including adopted children;
3. Parents; and
4. Brothers and sisters.

Availing services to these members will be limited to cases where there is a demonstrated impact on the HUD employee's performance or conduct.

- N. Treatment Plan. A treatment plan is a plan jointly developed with the employee and the EAP Counselor (service provider). The plan will include the identified disabling condition, source, length and type of treatment, and any specific accommodation to be made during the employee's counseling/treatment period.

#### 1-7 Policy

- A. As an employer, HUD is concerned with the well-being of its employees, maintenance of workplace productivity, and preservation of a safe and secure workplace. HUD recognizes that in our complex society, personal problems are inevitable. HUD maintains and promotes a comprehensive EAP which will address alcohol, drug abuse, and other personal-medical-behavioral problems. The goal of the EAP is to restore valuable employees to

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full productivity. The EAP is designed to assist managers and supervisors in:

1. identifying troubled employees who may have alcohol, drug abuse, emotional or behavioral problems affecting conduct or work performance; and
2. motivating these employees to seek help;

The EAP also assists employees by:

1. providing short-term professional counseling assistance and referral;
2. directing employees toward the best assistance available; and
3. providing continuing support and guidance throughout the problem-solving period.

The EAP will achieve these goals by providing a coordinated set of services and consultations aimed at detecting and correcting those conditions which

are harmful to productivity and by promoting healthy work and life style habits.

- B. The EAP is a private and confidential program. It is authorized by laws which protect the privacy of the individual and the confidentiality of client records. An employee's job security or promotion opportunities will not be jeopardized by using the EAP's services.
- C. The confidential nature of medical records of employees with medical/behavioral problems will be maintained in accordance with applicable requirements, i.e., 42 CFR Part 2.
- D. HUD respects the personal privacy of its employees. However, when HUD has good reason to believe an employee's conduct is directed toward or potentially harmful to the person or property of others, its first obligation is to those persons or properties, and then to the employee involved.
- E. Absences during duty hours for treatment/rehabilitation must be charged to the appropriate leave category, in accordance with leave regulations.
- F. Every effort will be made to review and support accommodations to be made for employees with disabling conditions.
- G. There is no cost to employees for the services of the

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EAP. However, if referral to a community resource is necessary, any resulting expenses will be the employee's responsibility. The EAP will work closely with the employee to choose a resource that provides reasonable and affordable assistance.

- H. Employees who suspect that they may have a personal-medical-behavioral problem, are encouraged to voluntarily seek counseling and assistance by contacting their local EAP Representative.

#### 1-8 Program Responsibilities

- A. Assistant Secretary for Administration. The Assistant Secretary for Administration advises the Secretary on all matters relating to administrative management of the Department and advises other Assistant Secretaries and Principal Staff concerning the management and administrative aspects of their responsibilities. Among other functions, the Assistant Secretary for

Administration is specifically responsible for planning and implementing the distribution and utilization of the Department's resources of personnel, equipment, material, and administrative funds.

- B. Director, Office of Human Resources. The Director of the Office of Human Resources has overall responsibility for the administration of the Department's EAP and for making appropriate recommendations to the Assistant Secretary for Administration regarding the program.
- C. Director, Labor and Employee Relations Division. The Director, Labor and Employee Relations Division will work closely with the EAP Program Administrator or designee on performance or conduct problems where personal, medical or behavioral problems are suspect.
- D. Employee Assistance Program Administrator. The EAP Administrator has the lead role in ensuring that the HUD EAP meets the requirements of all laws and regulations governing EAPs and is responsible for the development, implementation, and evaluation of the Department's EAP. The Administrator will advise Field Human Resources Directors and EAP Liaison Officers on EAP matters and will consolidate reports on HUD's EAP activity for submission to OPM on a fiscal year basis.

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- E. Field EAP Liaison Officers. Field EAP Liaison Officers will serve as the point of contact between Field Offices and the Headquarters EAP on broad issues related to the EAP, and will advise Human Resources Directors on these issues. Field Liaison Officers will also be the point of contact for the Headquarters EAP to facilitate new initiatives from Executive Orders and the Office of Personnel Management. The persons selected for assignment as Field EAP Liaison Officers will be allotted sufficient official time to:
  - 1. ensure implementation of the agency EAP policy and compliance with national and local agreements for their respective jurisdiction.
  - 2. assist Headquarters EAP staff in implementing EAP services through the PHS-EAP interagency agreement for identified Field Offices.
  - 3. work closely with employee relations staff on employee discipline problems with EAP components such as last chance



agreements.(substance abuse/mental disabilities), EAP supervisory referrals, etc.

4. facilitate EAP referral procedures under the Drug-Free Workplace Program (DFWP) for any employee who tests positive within their respective jurisdictions.
5. maintain the confidentiality of test results obtained through the DFWP and related medical and rehabilitation records in accordance with the Privacy Act and other regulations governing the confidentiality of counseling and treatment records.
6. determine and coordinate appropriate supervisory training and employee seminars and workshops needed to educate the workforce about EAP, and other topics such as substance abuse, mental health, and personal and family matters.
7. coordinate with the HUD Training Academy Career Development/Transition Counselors on employee support activities.
8. review quarterly and annual evaluative reports from the PHS-EAP service provider for trends and new needs to address, and to make modifications and improvements to programs services.

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F. Employee Assistance Program Counselors (Service Providers). EAP Counselors serve as the initial point of contact for employees who ask or are referred for counseling. At a minimum, persons designated as EAP Counselors should be:

1. familiar with the provisions of E.O. 12564, Drug-Free Federal Workplace and all other regulations and guidance governing EAPS;
2. trained in:
  - a. counseling employees in the occupational setting,
  - b. identifying drug abuse, emotional problems, etc., and
  - c. administering the EAP;
3. able to communicate effectively with employees, supervisors, and managers

concerning all employee problems, including their symptoms and consequences;

4. knowledgeable about community resources for treatment and rehabilitation of substance abusers, as well as other personal-medical-behavioral problems;
5. able to discuss treatment and rehabilitation insurance coverage available to employees with personal-medical-behavioral problems through the Federal Employees Health Benefits Program;
6. able to distinguish the occasional substance abuser from the addicted user and to suggest the appropriate treatment based on that information; and
7. able to provide training and education on drug abuse as well as on other personal-medical-behavioral problems to employees, supervisors, union representatives, etc. Specific educational and licensing requirements are found in Chapter 3, Program Administration, Section 3-2.

G. Medical Personnel. The local employee health unit provides emergency diagnoses and first time treatment of injuries or illnesses of employees during duty hours. Where indicated, the employee will be further referred to a physician or community health service. If such cases ultimately are determined to have stemmed from abuse of drugs, medical personnel should discuss

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the facts of the situation with the employee and refer the employee for counseling. A close working relationship with the EAP Counselor(s) is essential for program success. The health unit staff is available for consultation and assistance to personnel who have been assigned EAP responsibilities.

H. Supervisors. Supervisors are responsible for:

1. observing and documenting specific instances in which an employee's work habits, attendance, misconduct, or irregular behavior interfere with acceptable performance of assigned work and duties; and
2. assisting the employee to improve job performance through normal supervisory work counseling by focusing on specific documented instances of misconduct or deteriorating job

performance.

When personal-medical-behavioral problems are suspected, supervisors have a responsibility to communicate to the employee orally or in writing what he/she has observed. Supervisors are not expected to be diagnosticians or therapists. The EAP staff and professional counselors are resources available to assist once a supervisor suspects he/she has a troubled employee.

The supervisor must adhere to the same confidentiality requirements stipulated by law.

If a professional counselor or medical expert determines a disabling condition exists, the supervisor must review the work environment, the employee's specific disability, and the essential duties of the job and make a good faith effort to reasonably accommodate the employee.

- I. Employees. All employees are encouraged to become familiar with the services offered through the EAP. They are also encouraged to enhance their knowledge and awareness of substance abuse, AIDS, dependent care, and mental/physical health, through educational opportunities afforded by the EAP or the community at large. Employees who suffer from a personal-medical-behavioral problem are encouraged to seek counseling and assistance voluntarily. Employees found to be users of illegal drugs through the HUD Drug-Free Workplace Program are required to accept referral to the EAP and are urged to cooperate with medical treatment and/or rehabilitation programs that are indicated.