

Drug-Free Safety Program

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OHIO ASSOCIATION OF COUNTY BOARDS
SERVING PEOPLE WITH
DEVELOPMENTAL DISABILITIES
2010 ANNUAL CONVENTION
HILTON COLUMBUS AT EASTON
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Change from Drug-Free Workplace Program

- Effective July 1, 2010, the DFWP has been phased out and replaced with the Drug-Free Safety Program (DFSP)
- Public employers are eligible for DFSP beginning Jan 1, 2011
- Application deadline for Jan 1 program year was October 29, 2010

Program Benefits in relation to other BWC discount programs

- Discount of 4 percent for implementing a DFSP Basic Level program
- Discount of 7 percent for implementing a DFSP Advanced Level program
 - The additional 3 percent is received on top of the group credit up to the established cap pursuant to the credibility table, only when the employer uses the Advanced program

Program Benefits in relation to other BWC discount programs

- However, the combination of DFSP Basic and group-experience rating does not offer the ability to stack a DFSP discount on top of the group credit.
- Employers participating in DFSP Basic or Advanced and the small deductible program may receive both benefits.

Program Benefits in relation to other BWC discount programs

- Employers participating in both DFSP and the Safety Council Incentive Program may receive both benefits.
- Employers participating in DFSP for a discount cannot pay salary continuation on claims with dates of injury after Jan 1, 2011 (if participating in DFSP in 2011).

What is new about the DSFP?

- Participants must develop a substance policy that describes their drug-free program, which addresses:
 - Accident reporting
 - Accident analysis training for supervisors
 - Employer specific Safety Action Plan (for Advanced level)
- Employers must complete a safety review

What is a Safety Action Plan?

- Identify gaps in safety and then take appropriate steps to protect the workforce
- Work with BWC safety consultants to identify and implement these improvements

The Employer's DFSP Policy

- Provides operational rules of the program
- Full and fair disclosure of prohibited conduct
- Consequences for violating the policy
- Describes: safety requirements, annual employee education and supervisor training, alcohol and drug testing, and employee assistance

Basic Level (4 percent discount)

- Requires:
 - Completion of safety review within a prescribed time period;
 - Timely accident reporting;
 - Accident analysis training for supervisors
 - Development of a written DFSP policy that includes certain types of testing:
 - Pre-employment and/or new hire drug testing
 - Reasonable suspicion, post-accident, return to duty and follow-up

Basic Level (4 percent discount)

- Annual employee education and supervisor training
- Develop list of local community resources that employees with problems can turn to for assistance.

Advanced Level (7 percent discount)

- Requires:
 - Employer must create a Safety Action Plan based on the results of a completed safety review.
 - Employer must meet all requirements of Basic Level (i.e. drug testing)
 - Random drug testing of 15 percent of the average annual total workforce.
 - **NOTE:** for public employers, random testing only applies to safety-sensitive positions or functions, as defined by the employer.

Advanced Level (7 percent discount)

- Must offer annual employee education and supervisor training
- Expand available employee assistance to, at minimum, facilitating and paying for a substance assessment for employees testing positive for alcohol or other drugs who are offered a second chance and retain employment
 - **NOTE:** advanced level employers are not free to terminate an employee for a first positive alcohol or other drug test, subject to certain BWC exceptions

Program Requirements

- Safety Processes
- Written DFSP Policy
- Employee education
- Supervisor training
- Alcohol and other drug testing
- Employee assistance

Safety Processes

- Minimum/Basic Level requirements:
 - Complete an annual online safety review within 30 days of the start of program participation year
 - Conduct accident-analysis training for supervisors and any other personnel involved in the accident analysis process within the first 30 days of the program participation year or within 60 days of assigning an employee supervisory duties.

Safety Processes

- Complete and submit to BWC an online accident report within 30 days of the date of injury, or after becoming aware that an employee has filed a claim.
- Advanced Level
 - Submit a Safety Action Plan within 60 days of the start of the policy participation year (30 days after the safety review deadline) which addresses identified safety gaps and lists planned safety process improvements.

Written DFSP Policy

- BWC offers outline of proper DFSP policy (see program guide)
- After using outline, employer should modify to specific operational needs

Employee Education

- For Basic or Advanced Levels:
 - At least one hour of alcohol and other drug education for all employees per year
 - Discuss DFSP policy with all employees prior to starting the program; obtain signed acknowledgement of receipt
 - Educate employees on content of DFSP w/in first 8 weeks of employment
 - Employee education sessions must discuss:
 - Disease model for alcohol and other drugs

Employee Education

- Impact of recreational alcohol and drug use on workplace safety
- Signs and symptoms of substance abuse
- Effects of commonly used drugs in the workplace
- Information about community resources to get help

Supervisor Training

- To receive discount, employer must:
 - During first year in DFSP, include at least 2 hours of initial informational and skill building sessions for all supervisors
 - AFTER the first year in DFSP, one hour refresher course for supervisors (in addition to the hour of employee education)
 - Within 8 weeks of becoming a supervisor, at least one hour of training (supervisors should not be involved in testing responsibilities – i.e. reasonable suspicion – until properly trained.

Supervisor Training

- Content must include:
 - Recognize a possible alcohol or other drug problem (behavioral observation);
 - Document behaviors that demonstrate an alcohol/drug problem (documentation);
 - Confront employees with the problem (confrontation);
 - Deal with alcohol use among employees with whom the supervisor used to go out drinking when the supervisor was in a line-staff position before becoming a supervisor;
 - Initiate reasonable-suspicion testing;
 - Make appropriate referrals for assessment or assistance;
 - Follow up with employees returning to work after a positive test;
 - Operate consistently with any current collective-bargaining agreements.

Alcohol and other Drug Testing

- Reference slides 9-12
- Program Guide pages 10-11 include comprehensive chart
- <http://www.ohiohwc.com/downloads/blankpdf/DFSPGuide.pdf>

Employee Assistance

- **Basic:**
 - Employees who test positive for alcohol or other drugs must receive an explanation of the importance of having a substance assessment.
 - Regardless of whether the employer opts to terminate employees on a first positive test or chooses to retain the employee with a second-chance agreement, the supervisor or designated manager who counsels the employee should provide a list of qualified substance assessment resources in the community.
 - The DFSP does not prohibit termination of employment based on a first positive drug test.

Employee Assistance

- **Advanced Level**
 - Must meet Basic level requirements AND
 - Must pre-establish relationship with an employee assistance professional
 - Must pay cost of substance assessment (subject to bargaining agreement provisions) to terminate an employee on a first positive alcohol or other drug test and still be considered compliant
 - Employer must present a compelling reason for the employment termination
 - Examples include the nature of the employer's business (safety-sensitive or special-needs services) that might exempt the employer from the non-termination provision on a first positive requirement for the Advanced level.
 - Where union contract prevents termination on a first positive test, consult legal counsel

QUESTIONS?

THANKS FOR ATTENDING!
