

ARTICLE 49

EMPLOYEE ASSISTANCE PROGRAM

SECTION 1

The Employer agrees that, to the extent possible based on funding and staffing limitations, it will operate an employee assistance program (EAP). This program will offer short-term and crisis-oriented counseling for employees experiencing problems in the areas of alcohol abuse, drug abuse, emotional behavioral and/or health problems, and/or certain family situational problems. If this program is to be discontinued due to funding and staffing limitations, the Employer will notify the Union, and negotiations may take place in accordance with this Agreement. The employer provides an EAP that is consistent with this Article and the requirements found in the current HHS Personnel Instruction 792-2.

SECTION 2

The Employer and the Union will advise employees who appear to be experiencing performance, conduct and/or attendance problems of the availability of the EAP to provide counseling and referral assistance to resolve any personal problems that may be affecting performance, conduct and/or attendance. The Employer will provide information to Union representatives on the basic operating principles of the program.

SECTION 3

- A. EAP consultation(s) will be approved by the Employer on duty time or as excused absence, provided the employee informs his/her leave-approving official that the requested time away from the office will be used for EAP consultation. The employee need not provide further details to the official.
- B. Employees may request sick leave, annual leave, leave without pay, and/or earned compensatory time, consistent with applicable provisions of this Agreement, for purposes of undergoing a treatment program resulting from a referral by an EAP Counselor. Such leave requests will be approved or denied on the basis as for any other request which necessitates absence from work.
- C. If the employee chooses to inform his/her leave-approving official that requested leave will be used to undergo regular outside professional counseling/assistance for substance abuse or personal problems, that official will assist the employee in working out the schedule for taking any such approved leave. The leave approving official will keep such information in strict confidence. The EAP can provide information to the Employer as to whether an employee attended a counseling session and the approximate length of the session.

SECTION 4

- A. Counseling records and information from employee visits to EAP will be kept by the EAP in a confidential manner consistent with applicable laws and except where disclosure without consent is allowed (see below), the EAP must obtain the employee's written consent before any release of information can be made. This applies to all releases, including those to supervisors, treatment facilities, and family members, without regard to the type of problem the employee is experiencing.
- B. Disclosure by the EAP without consent is only permissible in a few specific instances, such as to medical personnel in a medical emergency, under certain court orders, and to comply with Executive Order 12564 (Drug Free Federal Workplace). If the employee's absence from duty is excused when he/she uses the services of the EAP, the EAP can provide information to the Employer as to whether an employee attended a counseling session and the length of the session.
- C. In certain situations, information provided to the EAP is not protected by the confidentiality regulations and policies and, due to the nature of the information, must be reported to appropriate authorities. Examples include, but may not be limited to:
 - 1. The EAP is required by law to report incidents of suspected child abuse and neglect (and in some states elder and spouse abuse and neglect) to the appropriate state and local authorities.
 - 2. If an employee commits or threatens to commit a crime that would physically harm someone or cause substantial property damage, disclosures may be made by the EAP to appropriate persons, such as law enforcement authorities and those persons being threatened.
 - 3. If the employee indicates that he/she is contemplating suicide, disclosures may be made to appropriate medical and/or law enforcement authorities.

SECTION 5

The Employer will issue an annual notice to all employees explaining the program.