

OFFICE OF THE EXECUTIVE DIRECTOR

MISSISSIPPI DEPARTMENT OF HUMAN SERVICES

POLICIES

MDHS - ADMINISTRATIVE POLICY	
Effective Date: May 1, 2009	AP - 50

SUBJECT: MDHS Drug and Alcohol Testing Policy

PURPOSE: Set policy for employee drug and alcohol testing.

ACTION: Division/Office Directors shall ensure dissemination of this policy to all staff. Notice of this policy shall be posted in a conspicuous location in all agency workplaces.

APPLICATION: This policy is applicable to all employees of the Mississippi Department of Human Services.

DUPLICATION: This policy may be duplicated.

CONTACT: Director of Human Resources

EXCEPTIONS: None.

EFFECT ON OTHER DIRECTIVES: None.

Distribution:

MDHS Deputy Administrators
MDHS Division Directors
All Supervisory Employees
MDHS-Policy Writers

Date: 3-12-09



Executive Director

The Mississippi Department of Human Services (MDHS) places in effect this drug and alcohol testing policy upon its publication. Each MDHS employee is advised that MDHS has implemented this policy and will conduct testing pursuant to Mississippi Code Annotated §§ 71-7-1 through 71-7-33, otherwise known as the Mississippi Drug and Alcohol Testing Act, and each employee is hereby advised of the existence of the act. MDHS and employees have certain rights and obligations that are specified in the act.

MDHS finds that, as a matter of policy, employees should not use, possess or sell illegal drugs and should not be under the influence of alcohol or drugs while on duty. Any employee who violates this policy, by testing positive for drugs or alcohol or otherwise, will have their employment terminated immediately.

All prospective employees will be required to review this policy and to sign a consent form agreeing to be bound by this policy as a condition of acceptance of employment. Any employee who has questions about any aspect of this policy should contact the human resources department.

Circumstances Under Which Testing Will Occur

The following is a description of the circumstances under which MDHS will require drug and alcohol testing.

- a. Pre-employment testing of all employees of MDHS. MDHS will require all applicants selected to fill positions to submit to a post-offer, pre-employment, drug and alcohol test as a condition of the employment process. Refusal to submit to the test will be grounds for withdrawal of any offer of employment. A confirmed positive test result will also be grounds for the withdrawal of any offer of employment or termination if results are obtained after the first day of employment.
- b. MDHS will allow reasonable suspicion drug and alcohol testing which is testing based on a belief that an employee is using or has used drugs and/or alcohol in violation of this policy and the drug free workplace policy. MDHS management's belief of reasonable suspicion to test will be drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things, the following:
 1. observable phenomena, such as direct observation of drug or alcohol use and/or symptoms or manifestations of being under the influence of a drug or alcohol;
 2. abnormal conduct or erratic behavior while at work, excessive or pattern absenteeism, excessive tardiness, or marked deterioration in work performance;
 3. a report of drug use provided by reliable and credible sources and which has been independently corroborated;
 4. evidence that an individual has tampered with a drug and alcohol test during his employment with MDHS;

5. information that an employee is involved in the use, possession, sale, solicitation or transfer of drugs or alcohol while working or while on MDHS' premises or while operating any MDHS vehicle, machinery, or equipment.
- c. Random selection testing will be required by MDHS for all employees. MDHS, through an independent provider, will conduct random drug and alcohol tests of covered employees.
 - d. MDHS, through an independent provider, may also require an employee to be tested for the presence of drugs and/or alcohol in the event that there is an on-the-job accident or an on-the-job incident. The employee shall be required to be available for testing immediately following the accident/ incident and for the next 32 hours after the accident/ incident and shall refrain from the use of drugs and/or alcohol until testing is completed.

Covered Employees

For the purposes of this policy, all employees of the Department of Human Services will be subject to post-offer, random, reasonable suspicion, and post-accident/incident drug and alcohol testing.

Substances Tested For

MDHS will test employees for the presence of the following substances: alcohol, marijuana, cocaine, amphetamines, opiates, phencyclidine (PCP or Angel Dust). MDHS reserves the right to add additional substances to the testing protocol on a determination that the best interests of MDHS will be served. The addition of a substance or substances to the testing protocol will only be done following a thirty (30) day employee notification period.

Effect of a Positive Drug and/or Alcohol Test Result

Any employee who has a confirmed positive test result for any of the substances listed above or who otherwise violates this policy will be immediately terminated. An employee who refuses to submit to drug and alcohol testing administered in accordance with this policy shall be immediately terminated.

Drug and Alcohol Testing Procedures

MDHS will contract with a provider to conduct drug and alcohol tests under this policy. The provider will conduct all of the tests required under this policy to include specimen collection, chain of custody procedures, obtaining necessary laboratory results, medical review officer services, and any other services incident to the drug and alcohol testing program. Testing will conform to scientifically accepted analytical standards. A more detailed version of the testing procedures will be made available in the human resources office.

Employees and job applicants identified under this policy to be alcohol/drug tested shall be allowed to provide notice to MDHS, through the provider, of currently or recently used prescription or non-prescription drugs at the time of the taking of the specimen. This written documentation is only necessary in the event that the employee tests positive for drugs or alcohol under this policy.

Confidentiality

All information, interviews, reports, statements, memoranda and test results, written or otherwise, received by MDHS or the provider on its behalf, through its drug and alcohol testing program are confidential communications except under certain circumstances as allowed by the Mississippi Drug and Alcohol Testing Act.

All information obtained; however, shall be the property of MDHS. MDHS will not release to any person other than the covered employee or job applicant, information related to drug and alcohol test results unless:

- a. the job applicant has expressly, in writing, granted permission for the employer to release such information;
- b. it is necessary to introduce a positive confirmed test result into an administrative or judicial proceeding where the information is relevant to the hearing or proceeding;
- c. the information must be disclosed to a federal or state agency or other unit of the State or United States government as required under law, regulation or order, or in accordance with compliance requirements of a state or federal government contract;
- d. disclosed to a drug or alcohol abuse rehabilitation program for the purposes of evaluation or treatment of an employee; or
- e. there is a risk to public health or safety that can be minimized or prevented by the release of such information; provided, however, that unless such risk is immediate, a court order permitting the release shall be obtained prior to the release of the information.

Contesting a Test Result

An employee who receives a confirmed positive drug and/or alcohol test result may contest the validity of that result or explain it. An employee who has a confirmed positive test result will be informed in writing by MDHS and may be immediately terminated. The employee has ten (10) working days to submit a written explanation as to why the test result is invalid, and the employee may request a retest of the original (split) specimen at his or her own expense. If the employee's explanation is unsatisfactory or if the employee fails to submit a timely written explanation, the test will be considered final, and the employee will be terminated.

ACKNOWLEDGEMENT

I, _____, acknowledge that I have read the Mississippi Department of Human Services Drug and Alcohol Testing Policy and agree to abide by all requirements of the policy. I acknowledge that failure to abide by this policy will result in immediate termination.

Date

Signature

Name Typed or Printed

Social Security Number