

## 870 Employee Assistance Program

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### 871 Introduction

#### 871.1 Purpose

##### 871.11 General

The Employee Assistance Program (EAP) is a formal, nondisciplinary program designed to assist employees and their immediate families in recovering from alcoholism and drug abuse and in dealing with other problems — mental, emotional, familial, marital, financial, legal, and other — that may adversely affect both an employee's job performance and personal life. Assistance is provided through consultation, evaluation, counseling, and/or referral to community resources and treatment facilities.

##### 871.12 Alcohol or Drug Abuse

Recognizing that alcohol and drug abuse are serious health problems that can adversely affect an employee's job performance and personal life, the EAP continues the Postal Service's obligation under the various collective-bargaining agreements to provide a program for employees afflicted with these problems. EAP is not intended to alter or amend any of the rights or responsibilities of postal employees or of the Postal Service itself.

#### 871.2 Definitions

Special terms used in this subchapter include the following:

- a. *Alcoholism* — a complex disease characterized by the uncontrolled use of alcohol.
- b. *Drug abuse* — an improper or illegal use of or dependency on drugs.
- c. *External EAP service provider* — an individual or group external to the Postal Service providing EAP services through an interagency agreement or on a contractual basis.
- d. *Family member* — any legal dependent of the employee, or anyone living in the employee's household, with the exception of tenants or employees of the postal employee who live in the household.
- e. *Internal EAP* — employee assistance services provided by employees of the Postal Service.
- f. *Other problems* — include, but are not limited to, gambling, stress, and emotional, family, marital, financial, and legal problems.
- g. *Self-initiated referral* — an employee's voluntary referral of him- or herself for assistance from the EAP, made by directly contacting an EAP counselor. An employee's first visit to the EAP may be on the clock, provided the manager receives advance notice and concurs. Subsequent consultations are on the employee's own time. If a reasonable period of time has elapsed since a previously disclosed self-referral, the manager or supervisor may, at his or her discretion, approve an additional on-the-clock session.

- h. *Written referral* — a manager's and/or supervisor's referral of an employee to the EAP based on job performance, attendance, or conduct issues. This type of referral is in writing, and the counselor receives a referral memo addressed to the EAP.

### 871.3 **Policy**

#### 871.31 **Job Security**

Participation in the EAP is voluntary and will not jeopardize the employee's job security or promotional opportunities.

#### 871.32 **Limits to Protection**

Although the employee's voluntary participation in EAP counseling for alcoholism or drug abuse should be given favorable consideration in disciplinary action, participation in EAP does not limit management's right to proceed with any contemplated disciplinary action for failure to meet acceptable standards of work performance, attendance, and/or conduct. Further, participation in EAP does not shield an employee from discipline or from prosecution for criminal activities.

#### 871.33 **Confidentiality**

Inquiries regarding participation in EAP counseling are confidential, pursuant to the provisions of 874.4. EAP records may not be placed in an employee's official personnel file (OPF).

#### 871.34 **Reasonable Access**

The contractor providing counseling must endeavor to provide confidential counseling facilities within a reasonable driving distance from the employee's work site or home. While it is desirable to provide ready accessibility to face-to-face EAP counseling, areas exist where it is not possible to do so. Counselors may offer telephone counseling or request that the employee travel to the counselor's office. Reasonable hours and days, including coverage of all three tours will be set as mutually agreed to between the EAP consultant and the HR manager. Counselors may adjust their schedules to respond to crisis situations and to meet other needs including, but not limited to, the provision of education sessions, and facility visits.

#### 871.35 **Scheduling**

An employee's first visit to EAP is on the clock, whether the visit is initiated by management, the union representative, or the employee, unless the employee prefers to visit the EAP unit on his or her own time. Subsequent consultations are on the employee's own time. If a reasonable period of time has elapsed since a management referral or a previously disclosed self-referral, the manager or supervisor may, at his or her discretion, approve an additional on-the-clock session.

## 872 Program Elements

### 872.1 Education

EAP counselors and/or subcontract counselors must provide information periodically for all Postal Service employees so that they may become aware of the EAP services as well as the various personal problems that can affect job performance or conduct.

### 872.2 Problem Identification, Referrals, and Evaluation

#### 872.21 Patterns of Behavior and Work Performance Problems

Certain patterns of behavior and/or work performance can be indicative of problems affecting the employee. Deterioration in attendance, appearance, conduct, ability, or any combination of these factors may signal that the employee is experiencing a personal problem that may affect his or her job performance. These problems may include gambling, substance abuse, emotional stress, or marital problems.

#### 872.22 Referrals to EAP

##### 872.221 Management Referrals

If a supervisor or manager observes the characteristics listed in 872.21, or has some other reason to believe that the EAP could provide needed assistance to an employee, he or she may refer the employee to the EAP. The referral must be in writing and addressed to the EAP. The supervisor or manager should not attempt to diagnose the perceived problem. The employee has the option to refuse the referral, and the employee cannot be disciplined for noncompliance. The counselor should contact the supervisor in the event the employee did not appear for an on-the-clock-scheduled appointment.

**Exception:** In instances when there is a Last Chance Agreement, or when the employee has signed a settlement agreement requiring EAP participation, the employee can be disciplined for noncompliance within the terms of the agreement.

##### 872.222 Referrals From Others

Fellow employees, union representatives, management association representatives, medical personnel, family members, or judicial and social service agencies may refer employees to the EAP.

##### 872.223 Self-Referrals

Employees who desire assistance with a substance abuse or other personal problem are encouraged to seek such assistance directly by personally contacting the EAP.

##### 872.224 EAP Response

The EAP counselor must accept all referrals. Face-to-face or telephone interview appointments must be available within a reasonable period from the time the request is made by the employee or family member. Face-to-face and telephone appointments for urgent situations must be made consistent

with need, regardless of the counselor's regularly scheduled hours. Crisis counseling must be available by telephone 24 hours per day, 365 days per year.

#### 872.23 **Problem Evaluation**

EAP counseling staff provide assessment services and arrange counseling for employees or family members or refer them to appropriate treatment resources.

### 872.3 **Recovery Counseling and Resources**

#### 872.31 **EAP Counseling Units**

EAP units are staffed by EAP professionals trained to counsel and provide referral services to individuals who seek their assistance. Postal EAP units are not equipped to provide detoxification or drug rehabilitation assistance, but they do make use of referral programs and other treatment facilities for these problems. To provide convenient, ready access to EAP counseling services for all Postal Service employees and their family members, a network of similarly qualified and capable affiliate counselors also provide EAP counseling services at other locations.

#### 872.32 **Residential and Community Resources**

A variety of other outside programs and treatment facilities are available to be recommended to employees and family members. EAP counseling service providers maintain a current list of community programs and resources, and assist with initial arrangements and appointments. The cost of any such programs or treatment facilities is borne by the employee if it is not covered by the employee's health insurance. In cases for which hospitalization or detoxification is recommended, requests for sick leave, leave without pay, annual leave, or advanced sick leave are the responsibility of the employee.

#### 872.4 **Follow-Up**

#### 872.41 **Progress**

If a manager or a supervisor has referred an employee to EAP counseling as a result of a job performance problem, that manager or supervisor should continue to monitor the employee's job performance.

#### 872.42 **Discontinuance of Participation**

Whether an employee opts to continue or discontinue participation in EAP counseling, he or she is still responsible for maintaining prescribed job performance standards.

#### 872.43 **Return to Work**

If an employee is on leave from the Postal Service to participate in an outside rehabilitative program for mental health or substance abuse issues, the EAP counselor monitors the course of rehabilitation and assists in any contemplated return to work. After participating in the rehabilitative program, Postal Service medical personnel or a contract physician must examine the

employee and make a recommendation to management about his or her ability to return to work. The installation head determines whether to return the employee to duty.

## 872.5 Program Evaluation

### 872.51 General

The EAP must be evaluated annually or more often, as needed. The purpose of these evaluations is to measure the efficiency and effectiveness of the program and to ensure that it is operating within established policy.

## 873 Reinstatement of Recovered Employees

### 873.1 Policy

#### 873.11 Consideration of Request

Requests for reinstatement from recovered employees should be given serious consideration, because the experience gained during postal employment might be a valuable asset.

#### 873.12 Consideration of Other Factors

In reviewing reinstatement requests, local management must consider the former employee's postal work history and the nature of the charges that led to removal or resignation, as well as the eligibility factors set forth in ELM 873.2 and in Handbook EL-312, *Employment and Placement*. Exceptions to reinstatement consideration are made whenever the former employee's record reflects either a criminal conviction or pending criminal charges. In the latter instance, circumstances outlined in Handbook EL-312 must be followed. In addition, exceptions to reinstatement consideration are made when an employee has been removed from the Postal Service for theft of mail or postal property, possession and/or sale of drugs while on duty, fraud against the Postal Service, and/or assaults or threats against postal personnel.

### 873.2 Eligibility

#### 873.21 Procedures

Reinstatement of an individual whose removal or resignation from the Postal Service is related to alcoholism, dependency on drugs, or other problems, may be considered when the individual:

- a. Submits a written request for reinstatement, accompanied by a signed authorization to release information, indicating the employee's written consent to a waiver of federal regulations on confidentiality restrictions.
- b. Is willing to accept reinstatement on the basis of continuing to successfully participate in a course of care and/or activity based upon the recommendations of the EAP counselor.

**873.22 Management Responsibilities**

The employing official must obtain certain prior approvals when removals for cause are involved as outlined in ELM 343. For procedural requirements regarding reinstatement, see Handbook EL-312, section 233.32.

**873.3 Compliance With Agreements**

If a former bargaining-unit employee is reinstated to a bargaining-unit position, employing officials must comply with all relevant provisions of applicable collective-bargaining agreements in determining the employee's seniority and other contractual rights.

**874 EAP Counseling Records****874.1 Policy**

Information about EAP counseling participants must be held in confidence. As restricted information, it may be disclosed only as described in ELM 874.4.

**874.2 Definition of Restricted Information**

Restricted information is information with limitations on its access within the Postal Service and its disclosure outside the Postal Service consistent with the Privacy Act and Public Health Service Act.

**874.3 Custodians of Records****874.31 Postal Service Providers**

When EAP services are provided by Postal Service employee counselors, counseling records are maintained within the Privacy Act system of records, USPS 120.140, Personnel Records — Employee Assistance Program (EAP) Records. They are therefore subject to Postal Service access, disclosure, amendment, and records maintenance regulations and policy implementing the Privacy Act (39 CFR 266, ASM 353, and ASM Appendix).

**874.32 Private Providers**

When EAP services are provided through an interagency agreement or a private vendor, each EAP counseling service provider is responsible for maintaining records on participants. These counseling records are the property of the primary provider and maintained in a system of records. The primary provider must maintain policies and procedures for safeguarding the confidentiality of client data and files and may be liable under the law for improper release of such information. The primary provider agrees to assert any privilege allowed by law and to defend vigorously Postal Service and employee rights to confidentiality.

**874.4 Disclosure****874.41 General****874.411 Usual Recipients**

Information identifying program participants, whether or not such information is recorded, may be disclosed as follows:

- a. To medical personnel to the extent necessary to meet a bona fide medical emergency involving the EAP participant.
- b. To qualified personnel with the express written authorization of the vice president of Employee Resource Management, for purposes of conducting scientific research or program audits or evaluation. However, under no circumstances may any identifying information be disclosed in the resulting evaluation, research, or audit reports.
- c. To a court, when authorized by a court order upon showing of good cause, such as when necessary to protect against an existing threat to life or of bodily injury, or in connection with the investigation or prosecution of a crime. In addition, in litigation or an administrative proceeding when authorized by the trier of fact, when the EAP participation offers testimony or other evidence pertaining to the content of his or her EAP participation. Counsel should be contacted for assistance in both evaluating the order and in determining the extent to which information must be released.
- d. To any person when the EAP participant gives prior written consent to disclose information. This consent to the release of information is specific indicating the nature and scope of topics to be released, to whom information is to be released, the purpose of the disclosure, and the date on which the consent terminates.
- e. To a person in any situation in which the EAP counselor has a duty to warn.
- f. To an expert, consultant, or other individual who is under contract to the Postal Service to fulfill an agency function, but only to the extent necessary to fulfill that function, and in accordance with the Privacy Act restrictions as listed under 39 CFR 266.6.

**874.412 Limitation of Disclosure**

In all cases above, only information that is absolutely necessary to satisfy the recipient's business or medical need is to be disclosed.

**874.42 Criminal Activity****874.421 EAP Records**

No EAP counseling records or personnel may be used to initiate or substantiate any criminal charges against an EAP participant or to conduct any investigation of a participant, except as authorized by a court order for good cause.

**874.422 Limitation of Confidentiality**

If an employee who is an EAP counseling participant reveals the commission or intended commission of serious criminal activity, the EAP counselor is not

prohibited from disclosing that information so long as the employee is not identified as an EAP counseling program participant. Confidentiality does not apply in any of the following cases:

- a. A crime is committed on EAP premises or against EAP counselor personnel or a threat to commit such a crime is made.
- b. Incidents when information must be reported as required by state law, for example, mandatory reporting of child abuse and/or neglect (elder/spouse abuse in some states) occurs.
- c. Disclosure that may be required to elements of the criminal justice system that have referred employees who are EAP participants.