



MINISTRY OF SOCIAL DEVELOPMENT

Te Manatū Whakahiato Ora

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- 9 JAN 2014

Matthew O'Leary
fyi-request-1295-4902d6bd@requests.fyi.org.nz

Dear Mr O'Leary

Thank you for your email of 11 November 2013 requesting, under the Official Information Act 1982, information regarding the drug testing of Work and Income clients.

As you are aware, Work and Income clients with work obligations are now required to take and pass a drug test where an employer or training provider asks for one as part of the application process for a suitable job.

This initiative is not aimed at sanctioning clients with addictions or dependency. A comprehensive assessment for drug dependency will be carried out by parties suitably qualified for this work. Clients who have a drug dependency or who are undertaking drug treatment will not be sanctioned for failing their obligations, and can receive a deferral from being referred to drug-tested jobs or training.

Implementation of drug test work obligations places an emphasis on robust discussions between the client and their case manager around being available for suitable work and discussing the ability to be able to pass a drug test if required.

Where a client has been matched to an opportunity and it is deemed suitable, Work and Income will discuss the pre-employment drug test and ensure the client is confident they can pass the test before sending them to the employer or training provider.

The client will be failed against their drug obligations, if they:

- arrive at the interview and refuse to take the drug test, or
- take the drug test and fail.

Where a client fails a drug obligation for the first time (in the last 12 months) their re-compliance activity is to 'verbally agree to stop using drugs'. By having this discussion and providing this assurance to Work and Income, the client's benefit will not be sanctioned.

Where a client fails a drug obligation for the second time (in a 12 month period) their re-compliance activity is to agree to provide a clean drug test within 30 working days. Where a client does not provide a clean drug test to Work and Income within 30 working days, this will automatically trigger the client's third obligation failure.

The third time a client fails their obligations in 12 months (drugs or any other obligation) this will result in the cancellation of benefit and a 13 week non-entitlement period during which the client is ineligible for a benefit (or 50 per cent cancellation for clients with

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dependent children), unless the client undertakes a six week approved activity. Their benefit will be reinstated once they commence this activity.

I will address each of your questions in turn.

1. The cost of implementing and enforcing the policy, with a breakdown of the costs

The cost of implementing the pre-employment drug test policy cannot be separately identified from other costs associated with the policy without substantial manual collation. As such, this part of your request is refused under section 18(f) of the Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

2. The number of beneficiaries referred to jobs which require drug testing

I can confirm that a total of 8,001 referrals were made to drug testable jobs in the two and half month period between 15 July 2013 and 30 September 2013.

3. The number of beneficiaries who passed their drug test and are now in paid employment

Employers are not required to inform Work and Income of the result of a client's drug test if the client has passed the drug test. However, in instances where an employer has provided this information to Work and Income it will be noted on a client's individual file. In order to provide you with this information Ministry staff would have to manually review thousands of files. As such I refuse your request under section 18(f) of the Official Information Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

4. The number of beneficiaries who failed their drug test

I can advise you that the Ministry has recorded 22 drug-related obligation failures nationwide for the period from 15 July 2013 to the end of September 2013. Of those, 11 clients failed a drug test and 11 either refused to complete the drug test or confirmed with Work and Income that they would be unable to pass a drug test for a suitable job.

5. The number of beneficiaries who, after failing the drug test, were determined to be addicted to drugs

6. The number of beneficiaries who, after failing the drug test, were determined to be using drugs for recreational purposes

Your request for this information is refused under section 18(g) of the Official Information Act as the information you have requested is not held by the Ministry and I have no

grounds to believe that the information is held by another department or Minister of the Crown or organisation.

7. *The amount saved (or estimated amount saved) so far from cutting or cancelling benefits of those who have failed drug tests*

Your request for the amount saved as a result of sanctions imposed on clients who have received positive drug test results is refused under section 18(e) of the Official Information Act as this information does not exist. No formal evaluation of amounts saved as a result of drug testing sanctions has been carried out.

Your request for the estimated amount saved as a result of sanctions imposed on clients who have received positive drug test results is refused under section 9(2)(g)(i) of the Act to protect the effective conduct of public affairs through the free and frank expression of opinions. The greater public interest is in the ability of individuals to express opinions in the course of their duty.

However, you may be interested in a publicly available document titled *Joint MSD/Treasury Report: Impacts of Welfare Reform*, dated 14 June 2012, which contains general estimates of the potential impacts of the Government's welfare reform package. This document is available on the Treasury website at:

<http://www.treasury.govt.nz/publications/informationreleases/welfare/pdfs/wr-2370550.pdf>

Please also find enclosed three pre-employment drug testing factsheets that have been produced for clients, employers and testing agencies.

I hope you find this information regarding the drug testing of Work and Income clients helpful. You have the right to seek an investigation and review of my response by the Ombudsman, whose address for contact purposes is:

The Ombudsman
Office of the Ombudsman
PO Box 10-152
WELLINGTON 6143

Yours sincerely



 Debbie Power
Deputy Chief Executive Work and Income

Pre-employment drug testing

Information for clients

Information about drug testing and what happens if you need to take a drug test when Work and Income refer you to a job.

People on a benefit who have work obligations must take and pass a drug test if they're referred to a job or a place on a training course where drug testing is a part of the application process.

What you can expect

We'll tell you if the job or training course needs a drug test before we refer you to it. You'll need to tell us straight away if you think you may not pass the drug test.

Before you take the drug test, the person overseeing the test will explain the type of test they're using and how it works, and when you'll know if you've passed or not.

There's a national drug testing standard and there are two types of tests, both needing a urine sample:

1. A **screening test**, which is 98% accurate and shows within about five minutes if your urine has tested positive for drugs. Most employers will only do this type of test. It costs between \$30 and \$70. If you pass the drug test, you won't need to pay for it.
2. An **evidential test**, which is 99.9% accurate and shows what type of drug and how much is in the sample. Your test sample would be sent away to a laboratory with the results being given to you some time later. It costs around \$120. If you pass the drug test, you won't need to pay for it.

How a drug test is done

You will usually give your urine sample in a specially prepared toilet area designed to ensure your privacy while keeping the sample safe from tampering or contamination. This will be done under strictly controlled conditions.

As long as you pass the drug test, no further drug testing action will be taken as part of applying for that job.

Accepting a failed drug test

If you fail a drug test, the person overseeing the test will:

- discuss the result with you
- ask you whether you accept the result, and confirm it if you do
- ask you to sign a confirmation form agreeing to the result.

If you don't agree with the drug test result

If you take the drug test and fail, the best time to discuss the results is straight away with the person doing the test.

If as a result of that discussion it's decided to go for a further test to confirm the result, and that test also fails, you will need to pay for this test.

What happens when you fail a drug test?

If you fail the drug test without a good and sufficient reason:

- You'll have to repay Work and Income for the cost of the failed drug test. This cost will be taken out of your benefit in weekly payments.
- The first time you fail, you'll have to agree to stop using drugs so you can pass a drug test in the future.
- The second time you fail, you must pass another drug test within 25 working days;
 - Work and Income will talk to you about approved drug testing providers
 - you'll need to arrange the drug test
 - irrespective of whether you pass or fail the drug test, you'll need to meet the cost of the test
 - we can help you meet the costs of passing the drug test, which you'll then have to pay back from your benefit in weekly payments.
- If you fail a third time, or if you don't take and pass a drug test within 25 working days, for 13 weeks your benefit will:
 - reduce up to half if you have dependent children, or
 - stop if you don't have dependent children.

As long as you are still entitled to it, your benefit can be restarted earlier if you agree to take part in an approved activity for at least six weeks.



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For more information



Visit www.workandincome.govt.nz



Call **0800 559 009**



Visit a Work and Income service centre

Pre-employment drug testing Information for employers

Changes to a beneficiary's obligations when referred to a vacancy that requires pre-employment drug testing.

What's changing?

From 15 July 2013, where a drug test is part of your job application process, any beneficiary we refer to you now has to take and pass that drug test.

The new changes have been introduced to cut down on the number of drug test refusals or failures by beneficiaries referred to employers for drug tested jobs.

When you list a vacancy with Work and Income

As part of our screening process we will only refer beneficiaries to your vacancy if the job is suitable for them and they tell us they can pass a pre-employment drug test.

If the beneficiary passes the test it will be business as usual.

If the beneficiary fails the test, you will now be able to claim reimbursement for the drug test back from Work and Income.

If a beneficiary fails a drug test and accepts the result of the test

In the event a beneficiary fails a drug test, we'll ask you to:

- talk to the beneficiary about the result and confirm that they accept the result
- request they sign a drug test result confirmation form.

We suggest you maintain a copy of this form with the application records in case the beneficiary later disputes the result of the test.

The confirmation form is available for download from the Work and Income website or you can call us if you want printed copies.

If a beneficiary doesn't accept the result of a failed drug test

- We will tell beneficiaries that if they fail the drug test but don't agree with the failed result, the best time to discuss this is straight away with the person administering the drug test. They can also sign the drug test result confirmation form to confirm that they don't accept the result.
- If you then decide to send the failed screening test to a laboratory for evidential testing to confirm the result, you can claim reimbursement for the evidential test if that also fails.

How to get reimbursement

To be able to claim reimbursement of any failed drug tests your job vacancy needs to be lodged with Work and Income and we need to have referred the applicant to you.

You should also:

- tell Work and Income at the time you lodge the vacancy that the job requires a pre-employment drug test
- meet the New Zealand standard for drug testing, AS/NZS 4308:2008 – *Procedures for the collection and the detection and quantitation of drugs of abuse in urine*
- confirm with the beneficiary that they accept the result of any failed drug test
- ask the beneficiary to sign a results confirmation form
- make a claim for reimbursement within 30 working days of the drug test being taken.

We may not be able to reimburse you for a failed drug test if:

- the beneficiary has not been referred to you by Work and Income
- the applicant doesn't have Work and Income work obligations or is registered as a job seeker only and not getting a benefit from Work and Income
- the beneficiary refuses to take a pre-employment drug test
- you don't let Work and Income know about the pre-employment drug test requirement at the time of lodging the vacancy.

We'll make sure you get all the information about reimbursement criteria when you lodge the vacancy with us.

How to make a claim

There is a specific employer claim form (tax invoice) for making claims for reimbursement. This form is found on the Work and Income website and can be submitted to us electronically.

The form asks for information such as:

- your company details
- beneficiary details
- drug test information.

Once the form has been submitted payment will be confirmed and paid to the bank account number given on your claim form, or we'll get in touch with you if we need any further information.

How much will Work and Income reimburse you?

The reimbursement amounts for failed pre-employment drug tests are paid at a standardised rate (inclusive of GST) as follows:

- *In-house testing \$30*
When an employer has staff on their premises that have been trained to the New Zealand Drug Testing Standard, and have attained the relevant NZQA unit standards.
- *External agency testing \$70*
Where employers contract a drug testing company to do pre-employment drug testing procedures on their behalf.
- *Evidential testing \$120*
When an employer sends samples to a laboratory for evidential testing; the cost associated with this type of testing is significantly higher than a basic screening test.



Work and Income
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For more information



Visit www.workandincome.govt.nz



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Pre-employment drug testing

Information for testing agencies

How Work and Income will work with testing agencies when a beneficiary is required to take a drug test.

What is changing?

From 15 July 2013, where a drug test is part of a job application process, any beneficiary we refer to a vacancy has to take and pass that drug test.

New changes have been introduced to cut down on the number of drug test refusals or failures by beneficiaries referred for drug tested jobs.

If they fail the test (or refuse to take it) without a good reason, in most cases:

- the first time they do this, they'll have to agree with Work and Income to stop using drugs so that they can pass a drug test in the future
- the second time they do this, they'll have to agree to take and pass a drug test within 25 working days and provide verification of the passed result to Work and Income.
 - We estimate this will be required of around 2,000 beneficiaries a year.

Taking a drug test

When a beneficiary is required to **take and pass a drug test**, Work and Income will:

- provide them with a list of testing agencies in their area and the cost of a test
- confirm with the beneficiary which testing agency they choose to use
- offer assistance to the beneficiary to help meet the cost of taking the test and explain that this must be repaid from their benefit.

If assistance is required for the cost of the test, Work and Income will pay you on behalf of the beneficiary.

They will bring a letter to their appointment with you that confirms all of this.

The result of the drug test must be given to the beneficiary who had the test. You don't have to supply the result to Work and Income.

Any discrepancies or disputes regarding the result of the drug test remains between you and the beneficiary.

Claiming for the cost of the test

If Work and Income agree to pay for the cost of the test on behalf of the beneficiary you will need to send us a claim for the cost. Please complete a specific testing agency claim form (tax invoice). This form is found on the Work and Income website and can be submitted electronically.

The form asks for information such as:

- your company details
- the beneficiary's details, including confirmation of their identity
- the test result.

Once the form has been submitted payment will be confirmed and paid to the bank account number given on your claim form, or we'll get in touch with you if we need any further information.

Registering as a testing agency with Work and Income

If you wish to be registered as a testing agency for Work and Income to refer beneficiaries to, you must comply with the New Zealand drug testing standard AS/NZS 4308:2008 - *Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine.*



For more information

