



BWC's Drug Free Program Is Revised

April, 2010

Effective July 1, 2010, the Bureau of Workers' Compensation (BWC) will be eliminating the Drug Free Workplace Program and implement a new acronym- DFSP (Drug Free Safety Program). This program will drastically reduce the discounts available to participants but will also broaden the scope of employers that can participate (Group Rated Employers may participate).

Here are the two levels of participation:

Basic Level (4-percent discount)

DFSP Basic requires completion of a safety review within a time frame identified in BWC written program publications; timely accident reporting; accident-analysis training for supervisors; and development of a written DFSP policy with certain types of testing, such as pre-employment and/or new hire, reasonable suspicion, post-accident, return-to-duty and follow-up. In addition, employers must do annual employee education and supervisor training, and develop a list of local community resources that employees with problems can turn to for assistance as well as commit to employee health and well-being in the DFSP policy.

Advanced Level (7-percent discount)

DFSP Advanced requires employers to commit to putting together a safety action plan based on the results of the completed safety review and to meet all safety requirements of the Basic level. It also requires the same alcohol and other drug testing requirements as the Basic level along with random drug testing of 15 percent of the average annual total work force. For public employers, random testing applies only to safety-sensitive positions or functions, as defined by the employer. Advanced-level employers must offer annual employee education and supervisor training, and must expand available employee assistance to, at a minimum, facilitating and paying for a substance assessment for employees testing positive for alcohol or other drugs who are offered a second chance and who retain employment. Advanced-level employers are not free to terminate an employee for a first positive alcohol or other drug test, although there are some exceptions described in BWC policy.

If you have questions regarding the specifics of some of these changes, Millisor+Nobil attorneys will provide a comprehensive overview of the new program. Please contact the Millisor+Nobil Workers' Compensation Group:

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