

## DEFINITIONS

Employee, as used in this policy, is limited to employees who entered into the Non-Tobacco Use Agreement when enrolling for benefits under one of the state's health care plans.

Non-Tobacco Use Agreement form states the penalties for violating the employee's agreement not to use tobacco products during the plan year and/or refusal to submit to testing.

Reasonable suspicion shall be deemed to exist when any of the following occurs:

- Observable behaviors, such as direct observation of tobacco use or possession and/or physical manifestations of tobacco use such as lingering tobacco smell on the employee's person;
- Report that an employee is using tobacco;
- The appearance of tobacco use or possession including tins, pouches, mint leaves and any substance that mimics a tobacco product.

Although reasonable suspicion does not require certainty, mere "hunches" are not sufficient to meet this standard. Any state employee who reports tobacco use without having a reasonable basis in fact may be subject to disciplinary action for false reporting.

A Safe Harbor, a.k.a. amnesty, is available to employees who rescind their Non-Tobacco Use Agreement by logging into PeopleSoft® prior to any use of tobacco products during the plan year. This safe harbor applies only to disciplinary action; the employee will still lose the \$10 bi-weekly reduction in premium and be subject to paying back any premiums for the pay periods in which the employee received the incentive.

## RESPONSIBILITIES

Employees are responsible for:

- honoring their commitment not to use tobacco products at all during the plan year covered by their signed agreement; and
- rescinding their Non-Tobacco Use Agreement prior to the use of any tobacco products by logging into PeopleSoft® so that the full premium can be re-instated and back premiums collected; and
- submitting to tobacco testing upon request; and
- abiding by the provisions of any penalties issued for violation of the agreement.

State Personnel Department is responsible for:

- administering the tobacco testing program.

Agency Management is responsible for:

- conducting any necessary predeprivation proceedings and terminating the employment of an employee who violates his/her Non-Tobacco Use Agreement.

## PROCEDURES FOR TESTING PROGRAM

The state of Indiana will select a sample of employees for oral fluids testing to identify the presence of nicotine in saliva. Testing dates and locations will be scheduled based upon the results of the random selection and the selected employees will be required to perform the mouth-swab collection procedure in the presence of the state's testing representative. The employee will then seal his/her sample in a tamper-proof plastic pouch and give this pouch to

the state's testing representative. The representative will then send all collected samples to a designated laboratory for testing. Positive samples will then be confirmed by a second laboratory test known as liquid chromatography tandem mass spectrometry.

The results, both positive and negative, will then be sent to the state's testing representative who will contact each employee whose test resulted in a confirmed positive result. The employee's full premium will be re-instated for the remainder of the year. In addition, dishonesty will be subject to dismissal from employment.

Employees reported by reasonable suspicion will be tested with the same testing procedures as those employees selected randomly.

<b>REFERENCES</b>
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State's Health Care Plans

<b>ATTACHMENT</b>
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Non-Tobacco Use Agreement Form