

***PARKERSBURG-MARIETTA
CONTRACTORS AND TRADES
EDUCATIONAL
AND DEVELOPMENT FUND***

***AMENDMENTS-12/27/2022
SUBSTANCE ABUSE
POLICIES AND PROCEDURES***

2400 Garfield Avenue
Parkersburg, WV 26101
304-485-6322
1-800-647-6322

Thomas Herrmann, MD, MRO
800 Grand Central Mall STE 4
Vienna, WV 26105
304- 485-7127

I. Purpose.

The Contractors and Trades Educational and Development Fund, (the “Fund”), working in the jurisdiction of the Parkersburg-Marietta Building Trades Council and North Central Building Trades, has a strong commitment to provide a safe and secure workplace for its members/employees and to establish programs promoting high standards of health and safety.

The purpose of this policy is to provide guidelines for all concerned regarding substance use and abuse and to provide practical procedures for its administration, as well as to provide a listing of the services for which the Fund will pay (either by directly supplying the service or by reimbursement, as more specifically identified below).

- II. Definition.
Substance abuse means the misuse or illicit use of drugs or controlled substances such as heroin, marijuana, cocaine, or legally obtainable drugs not reported and being abused.

III. **Services Covered by Fund.**

The Fund will pay for the following items:

- A. One (1) Annual Drug Test per Fund participant member per calendar year;**
- B. One (1) Full PFT/Fit Test and one (1) Half PFT/Fit test per calendar year;**
- C. One (1) Respiratory Clearance per calendar year;**
- D. One (1) Hepatitis B Vaccine series (3 vaccinations) per calendar year;**
- E. One (1) Lead/Zpp test per calendar year;**
- F. Post-Accident Breath Alcohol testing and/or Random Breath Alcohol Testing; and**
- G. One (1) Flu Vaccine per worker and worker's spouse per calendar year.**

The Fund will reimburse Fund participants for the cost of an Annual Drug Test that was administered to an apprentice worker who, following testing, is accepted into the membership of a Union, or who is otherwise covered by a collective bargaining agreement that contains the Fund language in the agreement and for which the Fund is receiving contributions. However, the Fund will not reimburse for the cost of any testing administered to a person who fails any test and had not yet achieved membership with a Union at the time of the testing he or she failed.

IV. Policy and Procedures.

The Policy and procedures which apply to anyone testing on the Fund chain of custody form including workers who are members of current **Fund participants** and who are considered for employment by a participating contractor are addressed in the following statements:

- A. Applicants considered for employment.
 - 1. In order to maintain a safe, drug-free environment for its employees, contractors will not employ craftsmen who are involved in substance abuse. Therefore, any **Fund participant member** must submit to substance abuse testing before being employed.
 - 2. Members being tested have access to a copy of the Substance Abuse Policy by contacting the Fund Office or online at the following website:
www.pmctedf.com
- B. To implement this policy the following procedures will apply.
 - 1. Testing for drugs shall be limited to testing of a **Fund participant member** prior to beginning work for a contractor, annual testing for existing members of a **Fund participant**, random testing of a **Fund participant member** pursuant to a random drug testing plan established by a contractor, owner or union, and testing of existing **Fund participant members** for cause. For cause testing will be determined when there exists supporting evidence of impairment, accidents or when the contractor has good reason to believe an employed **Fund participant member** is under the influence of a drug or other intoxicant.

2. **The method(s) by which all drug testing will be conducted will be determined by the Board of Trustees of the Fund, and the method(s) may include hair, saliva, urine and/or blood sampling. *Provided*, however, that the Board of Trustees reserve the right to utilize multiple or different methods of sampling.**
 3. **The Board of Trustees of the Fund shall establish for what substances testing will be conducted, as well as the parameters of what constitutes acceptable and not acceptable substances levels resulting from testing. The Board of Trustees of the Fund utilize the United States Department of Transportation testing parameters as its guide, but reserves the right to alter those parameters, including utilizing more stringent guidelines or testing for more substances than the U.S.D.O.T., in its sole discretion. The Fund will maintain the testing panels/parameters on its website: www.pmctedf.com**
 4. Subject to random drug testing, testing for cause and any testing required by work site owners, any **Fund participant member** who tests negative as a new hire may come and go on his or her projects without retesting for a period of one (1) year.
- C. Random drug testing.
1. Random drug testing will be used where such testing is required by the contractor, owner or union.
 2. Testing of the employees of a contractor who is a member of the Fund will be conducted at a frequency not greater than once monthly.
 3. **The method(s) by which random drug testing will be conducted will be determined by the Board of Directors of the Fund, and the method(s) may include hair sampling, saliva sampling, urine and/or blood sampling. *Provided*, however, that the Board of Directors reserve the right to utilize multiple or different methods of sampling.**
 4. Testing of the employees of a contractor who is a member of the Fund at the request of the contractor may not exceed 5% of the contractor's employees in a given month. In making the calculation of 5% of the contractor's employees, the result of the multiplication of the number of employee's times 5% will be rounded up to the higher whole number. This number may be increased with the approval of the program administrator with documentation of an industrial site requirement.
 5. Testing will be performed on the project site or such other convenient site as may be agreed to by the contractor and the program administrator and will be conducted during working hours. During a random collection, a sample must be collected before the nurse leaves the site.
 6. All costs directly associated with the testing will be borne by the Fund.
 7. **Fund participant members testing negative following a random urine test will receive an updated drug-free status in the TOPS online database. Any random saliva test, or random test other than urine, will NOT update the Fund participant member's annual test in the TOPS online database.**
 8. Breath Alcohol Testing will be performed upon request of the Contractor, and in the event of an accident.

9. All results will be reported to employer/contact person.

- D. Upon completing successful urine drug testing [a negative test result], the TOP System will be updated certifying the employee's eligibility for employment.
- E. The drug abuse policy includes a qualitative analysis for all drugs of abuse for which the United States Department of Transportation tests, plus alcohol. The testing levels and guidelines with respect to urine, saliva and hair testing will be maintained on the Fund website: www.pmctedf.com.

* NOTE: The Fund acknowledges the passage of the West Virginia Medical Cannabis Act, *W.Va.Code* §§ 16-8a-1, *et seq.*, but holds to its "zero tolerance" philosophy, and a valid doctor's prescription for medical cannabis will not exempt an employee from testing or the limits set forth on the website.

- F. Employee Awareness Education:
Employee Awareness Education will be recognized where such education is required by the contractor, owner or union. A qualified person will explain why and how substance use is a workplace problem, the effects, sign/symptoms of use, effects of commonly used drugs in the workplace and, how to get help. There will be a minimum of two hours of substance abuse education annually for all employees. New employees will be advised about this program during orientation and will receive such education as soon as possible thereafter. In addition, supervisors will be trained when such training is required by the contractor, owner or union, to recognize substance problems that may endanger the employees and others as well as violate this Policy. This training will be in addition to the employee education session. Supervisors will also be trained about testing responsibilities, how to recognize behaviors that demonstrate an alcohol/drug problem, and how to make referrals for help.

V. Test procedures, results and appeals:

- A. With respect to hair samples, If: (1) a hair test is not permitted under state law where the **Fund participant member** is tested; or (2) the testing facility where the sample would be submitted does not perform hair analysis; or (3) the **Fund participant member** has no hair to provide as a sample, then the **Fund participant member** must submit a blood sample. The **Fund participant member** may not elect to provide a blood sample instead of a hair sample unless any one of the three (3) specified reasons listed above applies, in which case a blood sample must be provided. Refusal to provide a hair sample when required shall be considered a positive test result.
- B. With respect to urine samples, the specific gravity of the urine specimen will be checked at the time of collection of the urine sample. The specific gravity should be equal to or greater than 1.005. If the specific gravity of the specimen is less than 1.005 [such a specimen is referred to as "too dilute"], the specimen will be rejected and not further tested. If the first urine specimen is rejected as too dilute, the **Fund participant member** will be asked to wait and must give another urine specimen. If the second urine specimen is again rejected as too dilute, the **Fund participant member** must have a hair test performed at that time. If the additional specimen collection of urine cannot be collected before closing time on that day, the **Fund participant member** will be given the option of immediately providing a hair test/alternative test, or coming back the very next

morning to provide the urine specimen. If the **Fund participant member** fails to do so, the test will be considered a refusal to test.

1. If a urine specimen with a specific gravity equal to or greater than 1.005 is not collected and the **Fund participant member** does not provide a hair sample or a blood sample, if applicable, no drug-free status will be entered in the TOP system. This will be considered a refusal to test.

2. In the event of a “shy bladder” and the **Fund participant member** is unable to provide a sample in a reasonable amount of time, the **Fund participant member** must provide medical documentation from their physician for this syndrome then a hair test will be performed.

During this time the **Fund participant member’s** drug card will be listed as inactive. Failure to provide this documentation and supply the alternate test will be considered as a refusal to test.

3. In the event the collector doesn’t identify the dilute sample as too dilute during the time of collection, but thereafter determines that the sample is too dilute, the **Fund participant member** must return to the test site to provide an additional sample. The **Fund participant member** must return to provide another sample within forty-eight (48) hours from the time the collector notifies the employee that the sample in question is too dilute. Failure to timely return to the test site will be considered a refusal to test.

C. In addition to the specific gravity, the temperature of the urine specimen is checked. The range of temperature must be from 90 degrees to 100 degrees. If the temperature is not within that range, the urine specimen will be rejected and an alternative test such as a hair or blood test will be taken immediately. Only the second specimen will be submitted to the lab. Failure to take another test will be considered adulterated as described in the following paragraph.

D. Adulterated Sample.

1. In case the urine sample is determined to be adulterated [“adulterated” meaning to make impure by adding an improper substance to the specimen], the **Fund participant member** will be treated as having a positive test result. This includes being in possession of contraband during the time of collection.

2. In the case of an adulterated urine sample, the **Fund participant member** shall have the same rights as a **Fund participant member** who had a positive test result, and the same assessment procedures will be followed. See section V, paragraph F, below.

E. Medical Review Officer (MRO) reviews test results.

1. Attempt to contact **Fund participant member** at the phone number listed.

a. If no answer, repeat attempts are made.

b. If there is a recorder, a discrete message is left, including date and time of the message.

- c. If a person other than the Fund participant member answers, confidentiality remains. Results will only be discussed with the employee or prospective employee.
 - d. A two hour window period is given to return the phone call. If no return call is made, the Business Agent/contact person is notified.
2. After the results have been discussed with the **Fund participant member**, he/she is offered an appointment to further discuss results with the MRO.
- a. If **Fund participant member** declines the appointment, he/she is informed that the Business Agent/contact person will be contacted.
 - b. If **Fund participant member** agrees to an appointment, a time will be scheduled the same day if time allows. No show appointments will be reported immediately to the Business Agent/contact person and the employer.
 - c. If there are any questions by the MRO about the positive test result and the prescription drugs listed, a SAMHSA Certified Lab Toxicology Department will be contacted and/or a local pharmacy will be contacted regarding drug crossover and drug interaction.
 - d. If **Fund participant member** is unavailable to discuss the results, the Business Agent/contact person and employer will be contacted.
 - e. MRO shall offer **Fund participant member** the right to have his/her split specimen retested at an approved SAMSHA lab of his/her choice, and **Fund participant member** is responsible for the retesting cost up front. **Fund participant member** will be given twenty-four (24) hours to decide to appeal and within that twenty-four hours the **Fund participant member** must post in cash with the MRO office the fee for the other test confirmation using the same specimen but at an alternative laboratory. The failure of the **Fund participant member** to timely post in cash with the MRO office the fee for the other test confirmation will constitute a withdrawal of the appeal. Any appeal will result in the employer/agent being notified to remove you from safety sensitive duties during this appeal time.
- F. Appeal of positive test results.
 A **Fund participant member** who wishes to appeal his/her positive test results must notify the program administrator within twenty-four (24) hours of his/her notification of the results. Within that twenty-four (24) hours, the **Fund participant member** must post in cash the fee for another test confirmation using the same specimen but done at an alternate laboratory. The cash deposit must be made with the MRO office. The failure of the **Fund participant member** to timely post in cash with the MRO office the fee for the other test confirmation will constitute a withdrawal of the appeal. The alternate laboratory will be mutually agreed to among the Fund participant member, the MRO and the program administrator. If the second confirmation, which shall be a GC/MS (Gas Chromatography/Mass Spectrometry) confirmation, is negative, the **Fund participant member** will be reinstated and the second test cost will be refunded to the Fund participant member by the Fund. Be advised the PMCTEDF FUND will not reimburse the **Fund participant member** for any lost wages.

- G. Assessment
1. The office of the MRO will inform the **Fund participant member** of the EAP Counselors contact information to complete the necessary assessment. Assessment is necessary in order that the **Fund participant member** will be eligible to retest. Contact will be made either by telephone or certified mail.
 2. The **Fund participant member** must complete the assessment as soon as possible after notification of the positive test result. The Fund will pay for the cost of the initial assessment for an existing **Fund participant member**, but will NOT pay for the cost of the initial assessment for a prospective Fund participant member. The Fund will not pay for any treatment beyond the assessments.
 3. The **Fund participant member** will not be eligible for retest until written evaluation has been made by the Substance Abuse Professional which recommends eligibility for a retest.
 4. The **Fund participant member** must complete recommendations, if any, before becoming eligible for retest.
 5. The **Fund participant member** must still wait thirty (30) days from the original test date to retest after completion of the assessment.
 6. Failure to timely complete the assessment within 30 days from the positive date and/or failure to complete all recommendations from the assessment will require participants to restart and complete assessment and recommendations with all costs paid by the participant, to be eligible to retest.
 7. An individual who has two (2) positive test results will be ineligible to retest for a period of ninety (90) days from completion of the assessment. An individual who has three (3) positive test results during any twelve (12) month period will be ineligible to retest for a period of ninety (90) days from completion of the assessment or for one (1) year from the date of the last positive test result, whichever period of time is greater.
- H. Walk in drug screens are not allowed. To insure payment for the testing procedures, an appointment must be made using the recall letter sent by the Fund to the Fund participant member, or testing of Fund participant members may be scheduled by the Business Agent, company representative or the Fund Office. **In the case of a positive drug test, a Business Agent cannot schedule any sort of follow-up testing. Only the Fund office may schedule this type of testing.**
- I. Any drug testing collections that have been collected on the Fund's chain of custody forms will be recorded and processed the same as any of the Fund's tests, even if it is later determined that the collection should not have been collected on the Fund's chain of custody forms. The PMCTEDF will not dismiss or throw out any record reported to the program unless the test becomes expired.
- J. Notification of Outside Entities and Notification from Outside Entities.
1. The Trustees of the Parkersburg-Marietta Contractors and Trades Education and Development Fund are authorized to enter into reciprocal agreements with other funds (outside the jurisdiction of the Parkersburg-Marietta Building Trades Council and the North Central Building Trades) providing similar programs and procedures for their **fund participant members** in the construction industry.

Provided, however, that the Fund Board of Trustees has sole discretion whether to honor any such requests for reciprocity.

2. Pursuant to any such reciprocal agreements, the Parkersburg-Marietta Contractors and Trades Educational and Development Fund is authorized to share drug testing results with such other funds and to receive and act upon drug testing results transmitted from such other funds.
 3. Any employee or prospective employee who is tested under this Amended Substance Abuse Policies and Procedures shall be deemed to have consented to all of its provisions, including specifically this section V, paragraph J.
- K. Policy review, modifications and amendments by Board of Trustees, Legal Team, MRO and Administrator. The Trustees of the Parkersburg-Marietta Contractors and Trades Educational and Development Fund are authorized to review, modify and amend the Substance Abuse Policies and Procedures outlined in this program. At which time the program administrator, legal counsel, MRO and Trustees as a whole will review, discuss, and adjust with a majority vote on the changes.