

# Alcohol and Drugs in the Workplace—Puerto Rico

The following information applies to employees in: United States – Puerto Rico

Last updated on Jan 31, 2022

This Policy for the Detection of Controlled Substances for employees of UnitedHealth Group (UnitedHealth Group or “the Company”) is adopted pursuant to the Act to Regulate Controlled Substances Detection Tests in the Private Sector, P.R. Act No. 59 of August 8, 1997.

UnitedHealth Group is committed to providing a safe and drug-free work environment. This commitment relies on you performing your professional responsibilities free of illegal drugs or alcohol. Details of our drug-free workplace program are provided below.

## Applies To

This policy applies to all employees, contractors, and job candidates.

## Policy Statement

The possession, distribution, use, consumption, and illegal trafficking of controlled substances is forbidden under the laws of Puerto Rico and of the United States of America, and such actions are punishable by fines, incarceration, and other legal penalties. For this reason, among others, the use, consumption, possession, distribution and illegal trafficking of controlled substances is prohibited by UnitedHealth Group and shall not be tolerated or allowed on the part of our employees or candidates for employment.

Employees are prohibited from the following when reporting for work, while on the job, on company premises (see Terms below) or customer premises or surrounding areas, or in any company vehicle (see Terms below):

- the unlawful use, possession, transportation, manufacture, dispensing, sale or other distribution of illegal drugs, prescription drugs, or drug paraphernalia;
- the unauthorized use, possession, transportation, manufacture, sale or other distribution of alcohol;
- being under the influence (see Terms below) of alcohol or illegal drugs or having a detectable amount of an illegal drug in the blood or urine.

In addition, being under the influence at company-sponsored events or office social functions is a violation of UnitedHealth Group policy. As an employee, you are expected to act responsibly and hold yourself accountable for all aspects of your conduct and behavior the same as you do while working.

## Prescription And Over-The-Counter Medication

UnitedHealth Group does not prohibit employees from the lawful possession and use of over the counter and prescribed medications. Employees have the responsibility to consult with their doctors or other licensed medical practitioners about the potential effects of over the counter and prescribed medications on their ability to perform their specific job duties in a safe manner and are required to promptly disclose any work restrictions to your People Team representative. Employees need not, however, disclose underlying medical conditions, impairments, or disabilities to People Team unless specifically directed to do so by their doctors or other licensed medical practitioners.

## Testing

Except where precluded by applicable state law, UnitedHealth Group will conduct the following tests:

- **Pre-employment:** All candidates who have received a conditional offer of employment must pass a drug test before they receive an unconditional offer of employment and begin working for UnitedHealth Group. Pre-employment screenings will ordinarily be initiated at the time an offer is accepted. In no event will pre-employment screenings be conducted more than 60-days prior to a candidate's anticipated first day of employment.
- **Random:** Each calendar year, a certain percentage of UnitedHealth Group employees who are directly involved in the access or dispensing of drugs, in direct patient care roles and/or in the driving of patients will be subject to random (drawing) drug testing. The tests are unannounced, spread throughout the year, and the selection of employees will be made by a scientifically valid method.  
Refer to the [Random Testing Process](#) document.
- **Return-to-duty and follow-up:** Employees who test positive for drugs (see Terms below) or who otherwise violate this policy, but are not terminated, must pass a drug test before they can return to duty and are subject to follow-up drug testing at times and frequencies determined by UnitedHealth Group for up to two (2) years.

Employees who are leased or subcontracted to clients may also be required to be tested under those clients' drug and/or alcohol testing policies, provided that the policies comply with applicable law.

## Summary Of Collection Procedures

Except where precluded by applicable state law, UnitedHealth Group will follow the general collection and testing procedures set forth below:

- Prior to testing, candidates and employees will be provided with a written statement describing the testing procedures and the substances for which the specimen will be tested. Candidates and employees will be required to sign a written consent form in which they consent to and authorize testing.

- Candidates and employees shall be sent or transported to a designated collection site where they shall be required to verify their identity and otherwise cooperate in the site's normal specimen collection procedures.
- The collection and testing will be conducted, in private, by trained individuals who will use approved testing devices and testing forms. Chain of custody procedures shall be maintained from collection to the time specimens may be discarded to ensure proper identification, labeling, recordkeeping, handling and testing of specimens.
- The laboratory will notify UnitedHealth Group of the employee's test result in a confidential manner.

## **Drug Testing Procedures**

UnitedHealth Group shall pay the expenses for the controlled substances detection tests at laboratories selected by the Company. Corroborative tests at laboratories selected by the employee shall be paid for by the employee.

The tests shall be carried out by means of a urine sample, except for circumstances in which it is not possible to take such a sample. The tests shall be administered in accordance with scientifically accepted analytical procedures and following appropriate chain of custody procedures, so that the privacy of the employee may be protected as provided for under the Mandatory Guidelines for Federal Workplace Drug Testing Program. The sample shall not be submitted to any type of test other than that which is strictly necessary for the detection of controlled substances. There shall be no on-site observer while the employee or the candidate for employment provides the urine sample; but, one person shall take the sample handed by the employee or the candidate for employment at the exact moment that he/she comes out of the site where he/she provided the sample. For greater reliability, the temperature of the sample shall be taken in the presence of the employee or candidate for employment who has been submitted to the test, as a measure to determine if the sample has been adulterated. In the event that the adulteration of a sample is determined, it shall be discarded and the employee or candidate for employment shall be requested to provide a new one. If the adulteration were to continue, it shall be considered as an unjustified refusal.

Collected specimens shall be tested by a certified laboratory. The laboratory shall test specimens for marijuana, cocaine, opiates, amphetamines, phencyclidine, ecstasy, barbiturates, benzodiazepines, methadone, propoxyphene, 6-acetylmorphine and Oxycodone and such other controlled substances as may be dictated by the circumstances in accordance with the requirements of applicable law. The laboratory shall first conduct a screen on the specimen. If the screen test is negative, the laboratory will report to UnitedHealth Group that the candidate or employee has passed the drug test.

Any sample which gives a positive result shall be submitted to a second corroborative analysis by the gas chromatography / mass spectrometry (gc/ms) method.

Only after having obtained a confirmed positive test, the laboratory will send the test results to the Medical Review Officer (MRO) (see Terms below), The MRO is responsible for ensuring the accuracy and integrity of the drug testing process. If a candidate or employee has a confirmed positive, adulterated, substituted or invalid drug test result (see Terms below), the MRO will contact the candidate or employee by telephone at the numbers listed on the custody and control form. Candidates and employees will be given the opportunity to fill out and sign a medication disclosure form. Candidates and employees should promptly cooperate with the MRO.

The MRO shall advise UnitedHealth Group, in a confidential manner, if a candidate or employee has passed or failed the test, refused to cooperate, if a specimen is dilute (see Terms below), or if a test should be canceled. If the MRO determines that there is a legitimate medical explanation for a positive, adulterated, or substituted test result, the MRO will report a negative test result to UnitedHealth Group. If the candidate or employee does not provide a legitimate medical explanation for a positive test result, the MRO will verify the test result as positive. If the candidate or employee does not provide a legitimate medical explanation for an adulterated or substituted test result, the MRO will report to UnitedHealth Group that the candidate or employee has refused to take a drug test. Invalid test results will be canceled and, depending on the circumstances, may subject a candidate or employee to additional testing or to disciplinary action up to and including rescission of an employment offer or termination of employment.

After a confirmed positive result, the employee shall be advised in writing that he/she is entitled to hire (at his/her cost) another certified laboratory to obtain a second result from the same sample and, should he/she wish to do so, the minimum amount needed of the sample originally obtained shall be transferred to the independent certified laboratory hired by the employee for that purpose.

If the test performed by UnitedHealth Group is positive, and the second test made at the request of the employee is negative, the Company may suggest three laboratories, out of which the employee must choose one, to perform a third test paid for by UnitedHealth Group. The results of this third test shall be binding on both parties.

### **Coordination Of the Program and Activities**

UnitedHealth Group shall designate a person who will act as Coordinator between the organizations which shall render services for this program and the laboratory designated to perform the tests to detect controlled substances.

The person designated as Coordinator shall have, in addition to the aforementioned coordination functions, the following ones:

1. Maintaining under his/her custody all files or documents related to the administration of controlled substances tests and shall take the necessary measures to protect their confidentiality.

2. Notifying employees of any positive test results.
3. Supervising compliance with the detection and rehabilitation programs approved pursuant to this Policy.
4. Preparing a plan to educate and inform employees on the prevention of the use of controlled substances by way of the distribution of policies, literature, conferences and other means available. These programs will educate and inform employees, amongst other subjects, about:
  - The health risks associated with the illegal use of controlled substances in the workplace. (Log on to the [Substance Abuse and Mental Health Services Administration \(SAMHSA\)](#) federal website for more information.)
  - The Company policy to maintain a workplace free from controlled substances.
  - The sanctions and penalties that apply to the production, use, possession, distribution and/or illegal trafficking of controlled substances, rehabilitation, and assistance programs available to employees.
  - The sanctions and penalties which may be imposed on an employee by the Company for violations to this Policy.
5. Verifying compliance and execution of this Policy.
6. Adopting or approving treatment programs and rehabilitation plans for employees who use controlled substances, those who undergo a treatment and rehabilitation plan.

## **Inspections**

UnitedHealth Group reserves the right to inspect all parts and aspects of its premises for illegal drugs, alcohol or other contraband. All employees and visitors may be asked to cooperate in inspections of their persons, work areas and property (such as purses, wallets, toolboxes, lunch boxes, water coolers, thermos bottles, flasks, briefcases, desks, cabinets, lockers or cars) that might conceal illegal drugs, alcohol or other contraband.

## **Policy Violation**

- Candidates who test positive for drugs, who have a confirmed adulterated or substituted test result, or who refuse to cooperate (see Terms below) in a drug test will have their conditional offers of employment rescinded by UnitedHealth Group.
- The employment of any employees who refuse to cooperate in a drug and/or alcohol test may be terminated.
- The illegal possession, manufacturing, distribution or trafficking of controlled substances shall be the basis for immediate dismissal.
- Not informing UnitedHealth Group about the illegal possession, manufacture, use, and distribution or trafficking of controlled substances or alcohol on the part of any employee may result in disciplinary actions, up to and including dismissal.
- Not maintaining the confidentiality of any data, record or results of tests made under this Policy may result in disciplinary actions, up to and including dismissal.

- Not submitting to or complying with a rehabilitation program approved by UnitedHealth Group after a first confirmed positive result in a controlled substance detection test may result in disciplinary actions, up to and including dismissal.
- A second confirmed positive result in a controlled substance detection test shall be the basis for immediate termination.
- Adulterating any test, refusing to a test, and not appearing at a duly ordered test, shall be considered as an unjustified refusal and therefore treated as a positive result in the test may result in disciplinary actions, up to and including dismissal.
- UnitedHealth Group may take disciplinary and/or other appropriate action when an employee is involved in any conduct or crime that damages UnitedHealth Group's operations or reputation.

## **Responsibilities Of Employees**

- After a positive result in a test to detect the use of controlled substances, the employee shall have the opportunity to explain whether he/she is legally taking medication or substance, which may have affected said test. The employee may request a second corroboration test of the same urine sample, at his/her own cost. It will be mandatory that the employee submit to a rehabilitation program after a positive result.
- UnitedHealth Group must approve any rehabilitation program to which an employee submits him/herself under this Policy.
- UnitedHealth Group may perform follow-up tests on employees in rehabilitation programs, regardless of whether or not the tests are required by the rehabilitation program of the employee.
- The absences of an employee to attend a rehabilitation program may be charged first to any accrued sick leave and then to any accrued vacation leave. Once any available sick, vacation or any other type of leave with pay is exhausted, the employee may take leave without pay for a maximum of 30 days. To attend a rehabilitation program, the employee may also request leave under the Family and Medical Leave Act and/or the Americans with Disabilities Act, provided they are applicable. All of these leaves shall run concurrently with any leave under the Family and Medical Leave Act.

## **Voluntary Requests for Assistance**

UnitedHealth Group encourages employees with drug and alcohol problems to seek help from UnitedHealth Group's Employee Assistance Program (EAP) before becoming subject to discipline for violating this or other UnitedHealth Group policies.

Employees will not be disciplined by UnitedHealth Group because they request assistance. Employees may not, however, escape discipline by requesting assistance after they violate UnitedHealth Group's policies or are notified of their selection for drug and/or alcohol testing. In addition, employees who request assistance will not be excused from complying with UnitedHealth Group's policies, including its standards for employee performance and conduct.

## **Crimes Involving Drugs**

Employees who are convicted of, plead guilty to (including a plea of nolo contendere or no contest), or are sentenced for a crime involving illegal drugs in the workplace must report the conviction, plea or sentence to the People Team within five (5) calendar days after such conviction, plea or sentence. If an employee who is convicted of, pleads guilty to or is sentenced for a crime involving illegal drugs performs work directly relating to UnitedHealth Group's contracts or grants with a state or the federal government, UnitedHealth Group will report such conviction, plea or sentence to the appropriate agency within ten (10) calendar days after it receives notice.

## **Records And Confidentiality**

Information and records relating to test results and other medical information shall be kept confidential and maintained in files separate from employees' personnel files. Such records and information may be disclosed to candidates and employees, any third party designated in writing by a candidate or an employee, the MRO, UnitedHealth Group's EAP, a substance abuse professional, physician or other health care provider responsible for determining an employee's ability to safely perform his/her job and/or the employee's successful participation in and/or completion of any and all evaluations, counseling, treatments, and rehabilitation programs, to and among UnitedHealth Group's People Team Department personnel, supervisors, and other employees on a need to know basis, where relevant to UnitedHealth Group's defense in a grievance, arbitration, administrative proceeding, lawsuit or other legal proceeding, or as required or otherwise permitted by law.

## **Terms**

**Adulterated specimen** – A urine specimen that contains a substance that is not normally present in human urine or contains a substance that is normally present but is at a concentration inconsistent with human urine.

**Alcohol** – The intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl or isopropyl alcohol. The term includes beer, wine, spirits and medications such as cough syrup that contain alcohol.

**Company premises** – Company premises include, but are not limited to, all land, property, buildings, offices, facilities, grounds, parking lots, and places owned, leased, managed or used by UnitedHealth Group.

**Company vehicle** – All vehicles owned, leased or used by UnitedHealth Group and all vehicles that are used by employees, regardless of who owns or leases them, while performing work for UnitedHealth Group.

**Confirmed laboratory test** – any sample which after an initial positive result, is submitted to a second corroborative analysis by the gas chromatography / mass spectrometry (gc/ms) method and a second positive result is obtained.

**Drawing** – shall consist of the placing of the employee numbers in order to select by lottery casting lots, or any other method, those employees who shall have to take the test by mere chance.

**Dilute specimen** – A urine specimen that has creatinine and specific gravity values that are lower than expected for human urine.

**Employee** – any person employed by UnitedHealth Group. Includes non-exempt and exempt employees, executives, supervisors, managerial personnel, part-time employees, temporary and regular employees.

**Employment candidate** – any person who applies for a job with UnitedHealth Group, whether verbally or in writing, and who is offered a job, even if conditionally.

**Controlled substances or illegal drugs** – All controlled substances, designer drugs, and other drugs not placed in any schedule by the federal government that are not being used or possessed under the supervision of a licensed health care professional. (Controlled substances are listed in Schedules I-V of 21 U.S.C. § 812 and 21 C.F.R. Part 1308.) Also, those substances for which manufacture, distribution, dispatch, possession or use is prohibited by Act No. 4 of June 23, 1971, as amended, also known as The Controlled Substance Act of Puerto Rico, or by any other legislation of the Commonwealth of Puerto Rico or the United States of America, with the exception of the use of controlled substances by medical prescription or any other legal use.

**Laboratory** – any entity dedicated to clinical analysis and forensic chemistry that process tests for the detection of controlled substances using the guides and parameters established by the National Institute of Drug Abuse (“NIDA”).

**Medical Review Officer (MRO)** – A licensed physician who has knowledge, training, and clinical experience regarding substance abuse disorders and who will, among other things, review candidates' and employees' positive drug test results and evaluate any medical explanations for such results.

**Specimen** – a sufficient amount of urine obtained in a non-invasive manner and which is determined to meet the reliability and accuracy criteria accepted by laboratories for the performance of initial and corroborative testing, and for the retention of a portion to allow the employee to carry out his/her own corroboration test.



**Sensitive position** – positions of high risk where an accident can occur or where the safety of employees or others may be placed in danger.

**Substituted specimen** – A urine specimen that has creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

**Test positive for drugs or alcohol** – To take a drug or alcohol test that results in a concentration of alcohol, marijuana, cocaine, opiates, amphetamines, phencyclidine, ecstasy, barbiturates, benzodiazepines, methadone, propoxyphene, 6-acetylmorphine and Oxycodone or their metabolites, that [exceeds the cutoff levels that are established by UnitedHealth Group](#).

**Unjustified refusal** – means the refusal of an employee to submit to a test for the detection of controlled substances or the refusal to cooperate with the processing of such a test by, amongst others but not limited to, not promptly proceeding directly to a collection site when told to do so, failing to show up without justification at the place where the sample is to be taken; abandoning the site where the sample is to be taken; clearly stating his/her refusal to submit to the procedure; failing to obey orders or follow the instructions of the laboratory official in charge of collecting the sample adequately; attempting to provide or providing an adulterated or substituted specimen; failing to provide sufficient specimens; failing to sign testing and other required forms; and any other conduct that disrupts or interferes with the collection and testing process. The unjustified refusal to submit to a test for the detection of controlled substances shall constitute sufficient evidence that the result would have been positive and shall subject the employee to the applicable disciplinary actions.

**Under the influence** – To test positive for drugs and/or alcohol or display actions, appearance, speech or bodily odors which reasonably cause UnitedHealth Group to conclude that the employee is impaired because of illegal drug use or alcohol use.