

3 FAM 1990 ALCOHOL AND DRUG AWARENESS PROGRAM (ADAP)

(TL:PER-455; 10-29-2002)

3 FAM 1991 PURPOSE

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. The Alcohol and Drug Awareness Program (ADAP), established by the Department of State's Office of Medical Services (M/DGHR/MED), is for Civil Service and Foreign Service employees and their eligible family members, whether stationed in the United States and its territories, or abroad. The purpose of this program is to:

(1) Educate personnel and their eligible family members on the symptoms of alcohol and drug abuse;

(2) Encourage employees and their eligible family members with alcohol and drug problems to avail themselves of the counseling and assistance provided on a confidential basis by the medical staff; and

(3) Set forth policies and procedures for the Alcohol and Drug Awareness Program (ADAP).

b. In dealing with alcoholism and drug abuse, the Foreign Affairs agencies take into account the fact that education, treatment, rehabilitation, research, training, and law enforcement are not separate approaches to the problem but are interrelated.

3 FAM 1992 AUTHORITY

3 FAM 1992.1 Legislation

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

The authorities for the ADAP are cited in the following:

(1) 5 U.S.C. 7904(a) (authorizing employee assistance programs relating to drug and alcohol abuse);

(2) 5 U.S.C. 7361 and 7362 (authorizing prevention, treatment and rehabilitation programs relating to drug and alcohol abuse); and

(3) 22 U.S.C. 4084 (Foreign Service Act of 1980 section 904, authorizing Foreign Service health program).

3 FAM 1992.2 Regulations

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

Government-wide regulations governing the ADAP are published in 5 CFR, Part 792.

3 FAM 1992.3 Eligibility

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. To be eligible for the ADAP, an individual must be an employee or family member of the Department of State, or be covered by the Medical and Health Program under 3 FAM 1900.

b. Eligibility criteria for payment of medical expenses and medical travel can be found in 3 FAM 1900. Eligibility for the ADAP does not imply authorization of payment for medical services.

3 FAM 1993 POLICY

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. It is the policy of the Department of State and the other participating agencies to offer assistance to Federal employees and eligible family members when there are indications of deteriorating job performance, inappropriate behavior, or questionable reliability apparently as a result of the use of alcohol or other drugs.

b. Supervisors and managers are urged to become familiar with the ADAP and refer the employee to the available resource so that the individual can be restored to full potential as a member of the workforce.

c. These regulations do not apply to situations in which drug use by an employee has been detected by management as a result of drug testing carried out pursuant to the Drug-Free Workplace Program. Regulations concerning that program, including disciplinary procedures, are published in 3 FAM 2110 and in 3 FAH-1 H-2110.

3 FAM 1993.2 Procedures

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. When an employee's use of alcohol or drugs interferes with the efficient and safe performance of the employee's assigned duties, reduces his or her dependability, or reflects discredit on the agency, the employee's agency may take action in the form of:

(1) Non-disciplinary procedures, under which employees and eligible family members with alcoholism and drug misuse/abuse or addiction problems are offered rehabilitative assistance; and/or

(2) Disciplinary procedures, when an employee's actions constitute misconduct or if an employee does not respond to rehabilitative assistance with acceptable work performance or creditable conduct; and/or

(3) Reporting to an appropriate security authority the circumstances surrounding an employee's substance misuse, abuse or addiction problem, if the conduct poses a hazard to national security interests or to the safety of the employee or others and therefore, requires a limitation on duties or assignments dealing with national security information; and/or

(4) Reporting to law enforcement and/or security agency authorities if an employee's or eligible family member's substance misuse, abuse or addiction problem results in documentation of sustained impaired judgment or involves criminal conduct directed toward, or potentially harmful to, the persons or property of others, such as driving a car under the influence of alcohol, selling drugs, or stealing to support a drug habit. Management's first obligation in such cases is to those persons or properties, and then to the employee involved.

b. Nothing in these regulations shall preclude the agency from imposing a disciplinary sanction concurrent with rehabilitative assistance in cases where the employee's conduct has violated law or regulation. Discipline can be imposed regardless of a diagnosis of alcohol or drug misuse or addiction at the time of the employee's misconduct. A diagnosis of alcohol or drug addiction may be a mitigating factor in the imposition of disciplinary action against an employee.

c. Under no circumstances shall an agency employee disclose ADAP records or otherwise identify an individual as an ADAP patient, even in response to inquiries from law enforcement officials or investigators, unless:

(1) Such officials or investigators obtain the individual's prior written consent;

(2) Such officials or investigators obtain a court order in accordance with regulations that pertain to all federal ADAPs (see 42 CFR Part 2);

(3) The investigation is related to a crime on ADAP premises or against the ADAP program; and

(4) Such disclosures are made in connection with suspected child abuse or neglect in violation of state law.

3 FAM 1993.3 Definitions

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

The following definitions apply to this subchapter:

(1) **ADAP**—Alcohol and Drug Awareness Program;

(2) **ADAP patients**—Individuals who received ADAP services, including diagnostic, treatment, or referral for treatment, for alcohol or other drug use, abuse, misuse or addiction;

(3) **Addiction**—Same as alcoholism, but also includes dependence on drugs other than alcohol;

(4) **Alcohol abuse**—Use of an alcoholic beverage, which impairs the physical, mental, emotional, or social well being of the user;

NOTE: The definition of alcohol abuse is found in 42 CFR 2.11.

(5) **Alcohol misuse**—The problematic use of alcohol that does not rise to the level of alcohol abuse or alcoholism;

(6) **Alcoholic**—A person who has the illness of alcoholism;

(7) **Alcoholism**—A chronic, progressive disease with a variable course characterized by dependence upon, and impaired control of, alcohol use that continues despite adverse consequences that may be medical, social, psychological, occupational, legal, or interpersonal in nature;

(8) **Counselor**—A person qualified by virtue of his or her specialized education, experience, and/or clinical training to provide ADAP counseling;

(9) **Drugs**—Substances that affect behavior, perception, or mood. Drugs include, but are not limited to, controlled substances prescribed for general use by 21 U.S.C. 812 and implementing regulations and any substances in classes such as amphetamines, barbiturates, opiates, cocaine, cannabinoids, hallucinogens, PCP, inhalants, and alcohol;

(10) **Drug abuse**—The use of a drug or drugs for other than medicinal purposes, that adversely affects the physical, emotional, or social well being of the user;

(11) **Drug misuse**—The problematic use of a drug or drugs that does not rise to the level of drug abuse or addiction;

(12) **Eligible Family Members**—For purposes of eligibility for ADAP services, eligible family members of employees covered by the Department of State medical program, or family members of Civil Service employees who meet the same eligibility requirements under 3 FAM 1912 and 3 FAM 1914;

(13) A minor is a person residing:

(a) Outside the continental United States who has not attained the age of 18 years; and

(b) Inside the continental United States who has not attained the age of majority under the laws of the state in which he or she resides.

(14) **Patient**—Any individual who has applied for or been given diagnosis or treatment for alcohol or drug abuse at the ADAP;

(15) **Records**—Any information in the ADAP's possession, whether recorded or not, relating to a patient received or acquired by the ADAP; and

(16) **Substance**—Alcohol or any other drug.

3 FAM 1993.4 Obligations

(TL:PER-455; 10-29-2002)

(State Only)

Applies to Civil Service and Foreign Service Employees)

The management at State and supervisory personnel at other participating agencies are required to:

(1) Recognize that the misuse and abuse of alcohol or other drugs are treatable problems and that alcoholism or other drug addiction is a treatable disease for which the employee may require assistance in the form of counseling, treatment, rehabilitation, and aftercare;

(2) Consider for employment any person who has had prior alcohol and/or drug misuse, abuse, or addiction problems, subject to the provisions of 12 FAM 230 and 3 FAM 1900;

(3) Evaluate applicants for employment who actively misuse or abuse alcohol or other legal drugs [Note: Rehabilitation Act does not protect people who use illegal drugs] on the same basis as other applicants, subject to the provisions of 12 FAM 230 and 3 FAM 1900;

(4) Provide referral, counseling, or education services to employees and their eligible family members to ensure continuing awareness of the signs and symptoms of alcohol and drug misuse, abuse or addiction;

(5) Encourage employees and their eligible family members who misuse or abuse alcohol or other drugs to seek help from the ADAP or from health care providers at posts abroad so that appropriate and confidential medical assistance can be provided;

(6) Provide employees and their eligible family members, who misuse or abuse alcohol or other drugs medical assistance that is available to persons having other health conditions.

(7) Allow sick or other appropriate leave for the purpose of treatment, counseling or rehabilitation;

(8) Assure the employee that, subject to the provisions of 12 FAM 230 and 3 FAM 1900, requesting counseling or referral assistance for treatment does not jeopardize job security and/or promotion opportunities;

(9) Provide education for supervisory and managerial personnel outlining their role in identifying possible misuse or abuse of alcohol or other drugs and taking appropriate steps to address the problem (e.g. referral for diagnosis or treatment when necessary);

(10) Assure that, if disciplinary action proves necessary, it will be initiated solely on the basis of an employee's deficient work performance or conduct which has not met the standards of the foreign affairs agencies or is otherwise unacceptable (see 3 FAM 4100);

Note: Exemption is drug use detected pursuant to the Drug Free Workplace Program.

(11) Assure that, if criminal conduct is directed toward or potentially harmful to national security or to the person or property of others, action will be taken to protect these interests, persons, or properties and report suspected, alleged, or known criminal conduct will be reported to the Office of Inspector General (OIG) and the Office of Investigations, Diplomatic Security Service (DS/DSS/IICI); and

(12) Preserve the confidential nature of records in accordance with these regulations (see 3 FAM 1997).

3 FAM 1994 RESPONSIBILITIES

3 FAM 1994.1 General

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. The Secretary of State has designated the Office of Medical Services (M/DGHR/MED) as the ADAP Administrator.

b. Other participating foreign affairs agencies may designate program administrators for their own ADAP in the United States.

3 FAM 1994.2 Program Administrators

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

Program administrators are responsible for the following:

(1) Developing an overall coordinated ADAP that is responsive to the needs of the agency and that meets the requirements and guidelines of these and other regulations regarding federal ADAPs;

(2) Providing continuing leadership and guidance to supervisors in implementing guidelines and instructions for counseling and assisting employees with alcohol or drug misuse, abuse or addiction problems;

(3) Educating employees about the ADAP and arranging or conducting supervisory training;

(4) Establishing and maintaining liaison with labor unions and employee organizations through the agency's labor relations specialist (DGHR/PC/LM) to ensure maximum understanding and participation in the program;

(5) Working closely with the Office of Personnel Management (OPM) to ensure adherence to Federal program objectives and guidelines;

(6) Identifying and establishing relationships with acceptable community resources to provide or supplement rehabilitation facilities, and maintaining current information on these resources for those whom are counseling employees;

(7) Maintaining statistical records to evaluate the effectiveness of the program and furnishing required statistical reports. Such records and reports, if disclosed, shall not contain patients' individual identifiers such as names, social security numbers, addresses, position titles, or other information from which an individual could extrapolate a patient's identity;

(8) Evaluating the program and recommending changes to improve its operations; and

(9) Reporting to management on the results and effectiveness of the program, and to the Office of Personnel Management. Such reporting shall not contain patients' individual identifiers such as names, social security numbers, addresses, position titles, or other information from which an individual could extrapolate a patient's identity.

3 FAM 1994.3 Office of Medical Services

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

The Office of Medical Services (M/DGHR/MED), through its health care professionals, is directly responsible for:

(1) Diagnosing substance misuse, abuse and addiction cases that are self-referred or referred by program administrators, Foreign Service health care providers, supervisors, Diplomatic Security (DS), Bureau of Human Resources, Employee Relations (HR/ER) or Director General of the Foreign Service and Director of Human Resources (DGHR);

(2) Determining an individual's need for medical counseling and assistance in cases that are self-referred or referred by program administrators, Foreign Service health care providers, supervisors, Diplomatic Security (DS), Bureau of Human Resources, Employee Relations (HR/ER), or Director General for Human Resources (DGHR);

(3) Offering guidance to the supervisor, and, when requested, counseling to the employee based on the supervisor's documentation and knowledge of the employee's declining work performance, attendance problems, or disruptive behavior;

(4) Providing feedback, subject to the confidentiality rules set forth in 3 FAM 1996, to the Program Administrators of other participating agencies regarding their employees who are diagnosed with substance misuse/abuse/addiction by medical personnel;

(5) Carrying out educational activities abroad and in the United States to ensure that employees and supervisors understand and comply with the ADAP;

(6) Identifying Federal or other medical facilities abroad and in the United States that may be used in substance misuse/abuse/addiction cases;

(7) Ensuring that medical and other health care professionals have sufficient training or experience in alcohol or drug awareness to perform diagnostic and emergency treatment, and to providing medical advice and counseling to employees and their family members; and

(8) Protecting the confidential nature of ADAP records in accordance with 3 FAM 1997 (see 42 CFR section 2 et seq.).

3 FAM 1994.4 Supervisors

3 FAM 1994.4-1 Critical Role

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

Supervisors have a critical role in this program, however, they must not attempt to medically diagnose a substance abuse problem. Supervisors do have a legitimate and explicit expectation that their employees will perform jobs satisfactorily and will behave appropriately. When employees fail to fulfill these expectations, supervisors have both the right and the duty to confront them with the evidence, and to provide them with opportunities to correct the problem, regardless of its origin. Timely intervention may lead to early identification and treatment of a medical condition and is essential in returning employees to productivity.

3 FAM 1994.4-2 General Procedures

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

Supervisors should take the following actions:

(1) Be sensitive to changes in the work or behavior of supervised employees;

(2) Document specific instances when an employee's work performance, behavior, or attendance fails to meet minimum standards, or when the employee's pattern of performance and behavior seems to be deteriorating;

(3) Advise medical or counseling staff of the employee's deficiency. Include any aspect of the employee's duties that might involve dangerous activities;

(4) Counsel the employee concerning poor work performance or unsatisfactory behavior and inform the employee of available counseling services; and

(5) Advise the employee, should poor work performance or unsatisfactory behavior continue following counseling, that appropriate disciplinary action may be initiated.

3 FAM 1994.4-3 Special Procedures

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. If an employee has a national security sensitive position, or a clearance for access to classified information, or a public trust sensitive position, and is suspected of being involved in illegal activities related to illegal drugs directed solely toward himself or herself, the supervisor should:

(1) Inform the counselor, and refer the employee for counseling. Supervisors must not encourage the employee to describe the details of the illegal activity or conduct involved;

(2) If conduct indicates suspected, alleged, or known criminal activity, must also notify the Director General of the Foreign Service and Director of Human Resources (DGHR), and Office of Inspector General (OIG) of all relevant information. If conduct indicates impaired judgment or a potential hazard to national security or others, the supervisor must notify the Office of Investigations, Diplomatic Security (DS/DSS/IICI) of all relevant information; and

(3) If behavior is directed toward, or potentially harmful to, the persons or property of others, such as selling drugs or stealing to support the drug habit, the supervisor should report the known facts to the appropriate agency or office. The supervisor should inform the employee of the known facts, inform the counselor, and refer the employee for counseling.

(4) Employees are required to notify the Office of Inspector General if they suspect or know of violations of laws or regulations.

c. Notwithstanding paragraph a, supervisors and ADAP employees shall not disclose ADAP records or otherwise identify a patient as an ADAP patient, even in response to requests from law enforcement officials or investigators, unless:

(1) Such officials or investigators obtain the individual's prior written consent;

(2) Such officials or investigators obtain a court order in accordance with regulations that pertain to all federal ADAPs;

(3) The investigation is related to a crime on ADAP premises or against the ADAP program; and

(4) Such disclosure is made in connection with suspected child abuse or neglect in violation of state law.

d. See 3 FAM 1996 and 42 CFR 2 et seq. for detailed guidance.

3 FAM 1994.5 Counselors in Other Programs

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

Counselors in other programs, such as Equal Employment Opportunity or Career Development and Assignments, if advised by an employee of a personal alcohol or other drug related problem, must take the following action:

(1) Refer the employee immediately to the relevant program administrator, M/DGHR/MED, or when assigned abroad, Foreign Service health care provider; and

(2) Adhere to the requirements of 3 FAM 1996 on confidentiality of the information supplied by the employee.

3 FAM 1994.6 Medical Expenses for Rehabilitation

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Foreign Service Employees)

Payments for alcohol or drug abuse treatment by the State Department are applicable only for Foreign Service employees or their eligible family members in accordance with the medical program regulations in 3 FAM 1900.

3 FAM 1995 DISCIPLINARY POLICY AND PRACTICE

3 FAM 1995.1 ADAP Relationship to Disciplinary Policies and Practices

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. The alcoholism and substance abuse program is carried out as a non-disciplinary procedure aimed at the rehabilitation of substance abusers. However, failure of the employee to accept the assistance offered through the program, or to otherwise correct performance or conduct, is dealt with through disciplinary or other corrective procedures.

b. In those cases where the agency pursues non-disciplinary procedures in accordance with 3 FAM 1993.2-1, if an employee with an alcohol or substance abuse problem refuses to seek counseling, or if there is no improvement in performance or behavior after efforts at counseling, assistance, or treatment, appropriate disciplinary action maybe taken based on unsatisfactory job performance or unsatisfactory behavior. Shielding an alcohol or substance abuser by tolerating poor performance contributes to the progression of the problem by delaying the person's entry into a rehabilitative program.

3 FAM 1995.2 Release of Information

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

In a disciplinary action, substance abuse or addiction information on an employee may only be released in summary form and only with the employee's written consent or pursuant to a court order (see 3 FAM 1997).

3 FAM 1995.3 Dismissal from Employment

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. Removal from employment of a Federal civilian employee who cannot properly function in employment as a result of substance abuse is permitted by 42 U.S.C. 290dd-1 and 290ee-1.

b. Removal of such an employee whose employment is not consistent with the interests of national security is provided for in Executive Order 10450 of April 27, 1953.

3 FAM 1996 CONFIDENTIALITY

3 FAM 1996.1 General

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. Confidentiality of patient information is crucial to the success of the ADAP. The following regulations apply to records of any person who currently is or ever was an ADAP patient.

b. Confidentiality of patient information must be maintained in accordance with these regulations and 42 CFR 2.11 et seq. (prohibiting disclosure of any ADAP information unless certain conditions are met). For purposes of the assignments and medical clearances, disclosure of information relating to an individual shall be permitted only:

(1) With the patient's written consent (see 3 FAM 1997.2, *Disclosure with Patient's Written Consent*);

(2) In a way that will not affirmatively reveal that an identified individual has been, or is being diagnosed or treated for, alcohol or drug abuse; and

(3) For other purposes, disclosure of patient information is prohibited unless:

(a) The individual consents in writing (see 42 CFR 2.31);

(b) It is for purposes of a medical emergency, research, or program audits/evaluations (see 42 CFR 2.51);

(c) In accordance with a court order (see 42 CFR 2.61);

(d) Medical communications for the purpose of diagnosis and treatment within the Department of State's Office of Medical Services, and between medical personnel and authorized recipients of MED CHANNEL telecommunications (cables) abroad do not constitute disclosures for purposes of these regulations. Such communications are protected from disclosure to persons outside of the medical system through the use of MED CHANNEL, appropriate medical coding of diagnosis and medical procedures in cables, and by the use of appropriate labeling of written medical reports sent by pouch or mail; and

(e) Records on patients concerning identity, diagnosis, prognosis, or treatment for substance misuse/abuse/addiction are designated "medical-confidential". These records may not be disclosed except for the purposes and circumstances described in this subchapter, and may not otherwise be divulged in any civil, criminal, administrative, or legislative proceeding conducted by any Federal, State, or local authority. The ADAP Director is responsible for maintaining the confidentiality of ADAP patient records.

Note: The purpose and circumstances that control disclosure are outlined in the remainder of this section.

3 FAM 1996.2 Disclosure with Patient's Written Consent

3 FAM 1996.2-1 Nature of Consent

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. The patient may give written consent for disclosure of his or her substance abuse/addiction record, but the consent must state the following:

- (1) The name of the person or organization to whom disclosure is to be made;
- (2) The specific type of information to be disclosed;
- (3) The purpose or need for such disclosure; and
- (4) The individual's right of revocation.

b. The substance abuse/addiction record of an incompetent patient may be released to authorized recipients listed in 3 FAM 1996.2-3 upon the written consent of the patient's guardian, conservator, or other court appointed designee.

c. The records of a deceased patient may be released to authorized recipients listed in 3 FAM 1996.2-3 upon the written consent of the patient's executor, administrator, or personal representative.

3 FAM 1996.2-2 Extent of Disclosure

TL:PER-xxx xx-xx-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

Any disclosure under this subchapter, whether with or without the patient's consent, must be limited to information necessary to meet the need, or fulfill the purpose of the disclosure.

3 FAM 1996.2-3 Authorized Recipients

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. With the written consent described in 3 FAM 1996.2-1 and subject to the limitations of 3 FAM 1996.2-2, the record may be disclosed to the following persons:

Authorized Person	Purpose of Disclosure
Medical personnel	For diagnosis or treatment of the patient
U.S. Government personnel	To obtain benefits to which the patient is entitled. See 3 FAM 1997.2-3 paragraph b for a definition of benefits as used in this section.
Patient's Attorney	Upon written application of patient signed by the patient and the attorney.

Authorized Person	Purpose of Disclosure
Parents of a Minor	Information limited to a general evaluation of the patient's present or past status in a treatment program, if in the judgment of a qualified physician or counselor, such information would be helpful in treatment or rehabilitation of the patient.
Potential Employer	Whenever a patient or former patient has been employed or is seeking employment, and such employment is conditioned upon the person's status or progress in a treatment program, an evaluation of such status or progress by qualified medical personnel may be furnished to responsible employment agencies, services, or employers which have demonstrated their willingness to employ, or assist in the employment of, present or former alcoholics or drug abusers in an alcohol or drug abuse treatment or rehabilitation program. (See Note below.)
Patient's Family	Information in the nature of general evaluation of a patient's present or past status in a treatment program may be furnished to members of the patient's family if, in the judgment of a qualified physician or counselor, such information would be helpful in treatment or rehabilitation of the patient.

NOTE: No information may be furnished by a treatment facility to an employer or potential employer unless that facility is satisfied on the basis of past experience or other credible information (which may in appropriate cases consist of a written statement by the employer) that such information will be used for the purpose of assisting in the rehabilitation of the patient, and not for the purpose of identifying the individual in order to deny the person employment or advancement because of a history of substance abuse.

b. For purposes of this section, benefits include, but are not limited to:

(1) Any welfare, medicare, or other public financial assistance authorized by Federal, State, or local law;

(2) The suspension of prosecution;

(3) The granting of probation or parole;

(4) Public pension or retirement benefits;

(5) Any other benefit conferred by lawful authority; and

(6) Payment or reimbursement under a health or other insurance program carried by or on behalf of the patient and under which such patient is a beneficiary or a participant.

c. Any disclosure to a health or other insurance program must be limited to information which is directly relevant to, and necessary in support of a claim for payment or reimbursement under such health or insurance program for the benefit of the patient, and any information so disclosed remains subject to all of the restrictions of this subchapter with respect to further disclosure.

3 FAM 1996.3 Disclosure without Patient's Consent

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

For more extensive guidance, see 42 CFR section 2 et seq. Generally, disclosure of a patient's record by the Program Administrator may be made without the consent of the patient and without authority of a court order only as identified below:

3 FAM 1996.3-1 To Medical Personnel

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

A medical emergency exists when competent medical authority determines that the life or health of the patient may be impaired, and medical treatment without the record could be detrimental to the patient's health. See also 42 CFR section 2.51.

3 FAM 1996.3-2 To Qualified Personnel

(TL:PER-xxx- xx-xx-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

Qualified personnel may not identify, directly or indirectly, any individual patient in any report of research, audit, or evaluation, or otherwise disclose patient identities in any manner. For purposes of this section, "qualified personnel" means persons whose training and experience are appropriate to the nature of the work in which they are engaged, and who are performing such work with adequate safeguards against unauthorized disclosures. See 42 CFR sections 2.52 and 2.53.

3 FAM 1996.3-3 To Parents or Guardians of Minor Patients

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. A physician (healthcare provider) may communicate facts relative to a minor to his or her parents or guardian when, in the provider's judgment:

(1) The minor lacks the capacity to make a rational decision to participate in a treatment program because of immature age, physical or mental condition; and

(2) Failure to participate in a treatment program poses a substantial threat to the life or physical well being of the minor or poses a danger to any other person(s).

b. See 42 CFR 2.14.

3 FAM 1996.3-4 To Law Enforcement Agencies

(TL:PER-455; 10-29-2002)

(State Only)

Applies to Civil Service and Foreign Service Employees)

a. When a patient commits or threatens to commit a crime on the premises of an alcohol or drug abuse program, or against personnel employed by the program, nothing in these regulations shall be construed as prohibiting persons from seeking the assistance of, or reporting such crime, to a law enforcement agency. The person involved in the crime or threatened crime will not normally be identified as a patient by the reporting person.

b. See also 42 CFR 2.12(c)(5).

3 FAM 1996.4 Disclosure by Court Order

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. Disclosure may be made, if authorized by an appropriate order of a court of competent jurisdiction, after application showing good cause for it. In assessing good cause, the court will weigh the public interest and the need for disclosure against the injury to the patient, the physician patient relationship, and the treatment service.

b. See 42 CFR section 2.61 et seq.

3 FAM 1996.5 Prohibition against Criminal Charges or Investigation

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. Except as authorized by a court order (see 3 FAM 1996.4) no alcohol and drug abuse patient records may be used to initiate or substantiate criminal charges against a patient or to conduct any investigation of a patient.

b. See 42 CFR 2.65 and 2.67.

3 FAM 1996.6 Discussion of Illegal Activities

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

a. The counseling of persons who misuse alcohol or other drugs may sometimes involve discussion of their illegal activities. Except as permitted by these regulations, i.e., pursuant to written consent or a court order, ADAP counselors shall not disclose such information to law enforcement authorities and should not seek to elicit information relating to crimes or criminal conduct from these persons. (See 42 CFR 2.12 et seq. and 2.63.)

b. No counselor is bound to accept for counseling a person who persists in discussing illegal activities. Therefore, if information is disclosed on planned illegal activity against others or details of past illegal activity against others, the counselor should consult with legal counsel, where available, regarding his or her duties and responsibility. The counselor should advise the employee that continued disclosure would result in termination of counseling services.

3 FAM 1996.7 Disclosure in Disciplinary Actions

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

In a disciplinary action, an ADAP counselor may release information on an employee or eligible family member only in summary form and only with the employee's or eligible family member's written consent.

3 FAM 1996.8 Fitness for Duty and Pre-employment Examinations

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

- a. Medical opinion and patient identity concerning:
- (1) Fitness for duty;
 - (2) Administrative restrictions on duty;
 - (3) Medical eligibility for employment or assignment; or
 - (4) Security clearance

Note: These may be disclosed to appropriate sections of MED, the Bureau of Human Resources (HR) and/or the Bureau of Diplomatic Security (DS) without the patient's written consent.

b. However, such disclosures shall not include ADAP records or protected ADAP information about an individual. Instead, disclosures shall be limited to a statement that there is a possible health, safety, or national security concern, along with the name of the employee of concern, and any MED recommendation or determination regarding the Executive Order 10450 (EO)(security clearances), assignments process, or fitness for duty or employment. Such disclosures shall not indicate that the individual is a drug or alcohol abuser or that the individual is an ADAP patient.

3 FAM 1997 Reporting

3 FAM 1997.1 Reporting to Agency in Washington, DC

3 FAM 1997.1-1 Reports of Alcohol and Drug Abuse at Posts Abroad

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

Medical officers reporting cases by telegram of substance abuse or addiction involving employees or eligible family members should use MED CHANNEL and appropriate medical coding. Written reports should be submitted to the Office of Medical Services in a sealed envelope marked

Eyes Only - Medical Director and Medical Privileged Information. These reports, based upon information obtained from a patient, are subject to 3 FAM 1997.2.

3 FAM 1997.1-2 Possession, Trafficking, or Sale of Drugs Abroad or on U.S. Property

(TL:PER-455; 10-29-2002)

(State Only)

(Applies to Civil Service and Foreign Service Employees)

Reports of suspected illegal possession, trafficking, sale of drugs or other criminal conduct by U.S. citizen employees or their eligible family members are submitted (in accordance with these regulations) as follows:

Agency Report	Submitted To
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State employee or eligible family members	Director General, in the DIRGEN CHANNEL, Office of Inspector General, via the OIG CHANNEL-STATE, and to the Director, Office of Investigations, Diplomatic Security Service, via the DS CHANNEL.
Other agencies' employee or eligible family members	The respective agency's Office of Inspector General and personnel office. A copy of the message will also be forwarded the Office of Inspector General, the Department of State's Office of Investigations, Diplomatic Security Service.

3 FAM 1997.2 Reports to the Office of Personnel Management

(TL:PER-455; 10-29-2002

(State Only)

(Applies to Civil Service and Foreign Service Employees)

The Office of Medical Services submits annual reports to the Office of Personnel Management or to other authorized Federal agencies when requested, based on statistical information provided by the program administrators in State. Annual reports are due by July 15 and follow the procedures described in 3 FAM 1995, paragraph (7) and (9).

3 FAM 1998 THROUGH 1999 UNASSIGNED