

TBG's Fit-for-Duty Safety Incentive

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- Members now have an additional way to qualify for the 3% credit: Reasonable Suspicion/Fit-For-Duty
- TBG has partnered with MN Occupational Health for Reasonable Suspicion Supervisor Training courses

Due to recreational cannabis being legalized in Minnesota, TBG wants to continue promoting drug-free workplaces while encouraging our members to develop and follow a program that works for your company. Therefore, TBG advises members to consult legal counsel for a program tailored to their circumstances. We recommend partners for those without access to relevant attorneys specializing in this area. For flexibility, our drug testing credit program now includes reasonable suspicion/fit-for-duty testing.

Fit-for-Duty Safety Incentive Options

TBG's non-DOT 3% drug testing credit for pre-employment and post-accident testing is available. If not recommended by legal counsel, a non-DOT reasonable suspicion/fit-for-duty program can be an alternative for a 3% credit. Members choosing pre-employment, post-accident, and reasonable suspicion are eligible for a total credit of 3%.

To be eligible for TBG's drug testing credit, members must have a legally compliant drug testing program and submit the updated Drug Testing Program Credit form to TBG's underwriting team. Work with your Worker's Comp insurance agent to obtain the required form from our website.

The following offers general guidance on developing a drug, alcohol, and cannabis testing program in partnership with your legal team; however, it is not legal advice:

- Medical marijuana should be treated akin to other prescribed medications.
- Recreational cannabis under Minnesota law is allowed off-premises during nonworking hours.
- Employers should still promote drug-free workplaces and address impairment, especially in safety-sensitive roles. Leadership should undergo reasonable suspicion training to identify and manage employee impairment. A robust program, developed with legal and medical input, is advisable.
- For union members, consult your collective bargaining agreement for testing guidance.
- Testing for marijuana solely for employment conditions, unless required by law (e.g., DOT testing), is not allowed. Employers cannot reject applicants solely for testing positive for cannabis, except for safety-sensitive positions defined by consultation with an attorney.
- Employers can discipline employees for poor performance, unsafe behavior, and fitness-for-duty, irrespective of drug test results.

Reasonable Suspicion/Fit-for-Duty Safety Incentive Requirements

For a reasonable suspicion/fit-for-duty program, supervisors overseeing employees subjected to testing must undergo reasonable suspicion awareness training via a TBG-approved 3rd party vendor before credit approval. Supervisor training must be completed before enacting the credit. TBG's recommended training source is Minnesota Occupational Health, which offers quarterly virtual sessions.

For training details, contact Kim Johnson at MN Occ Health: kajohnson@mohonline.com | 651-968-5510 or your TBG Safety Services Representative.

Documentation of supervisor training should be retained and made available to TBG upon request.

**Training should be interactive, not pre-recorded. Alternative training sources can be discussed with Adam Tripp, TBG's Director of Safety Services, at atripp@tbgmn.com or 651-303-6326.*

Contact your TBG Safety Services Rep or Underwriter for legal counsel recommendations:

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