



24 OCT 2018

Dear [REDACTED]

On 29 August 2018, you emailed the Ministry requesting, under the Official Information Act 1982, information relating to drug testing criteria for Ministry clients.

Since October 2003, clients with work expectations have had some form of work test requirement to take and pass pre-employment drug tests if required to by a prospective employer. Welfare Reform changes came into effect on 15 July 2013, and included the introduction of the current pre-employment drug testing obligation failure. This policy aims to identify clients who are prevented from taking up suitable employment due to drug use, or who refuse to apply for drug tested jobs, and to quickly get them back to a position where they can apply for a full range of suitable employment. Clients diagnosed with a drug dependency will not be sanctioned under this policy; however they will receive support to address their addiction.

For the sake of clarity, I will address your questions in turn.

- 1) *What laws, policies and any other criteria MSD rely on to require or request that recipients of benefits undergo drug testing (for legal and illegal drugs)*
- 2) *What laws, policies and any other criteria MSD rely on to decide which beneficiaries are requested or required to undergo drug testing*
- 3) *What option beneficiaries have to refuse to undertake drug tests, how this information is made known to beneficiaries before they agree to undertake any such test and the consequences of refusal.*

Sections 102A, 102B and 102C of the Social Security Act 1964 (the Act), set out the requirement for a client to undertake and pass a drug test if required by a potential employer or training provider.

Sections 102A, 102B and 102C of the Act are available on the New Zealand Legislation website here: www.legislation.govt.nz/act/public/1964/0136/358.0/DLM359107.html.

Clients must undertake and pass a drug test if Work and Income have identified:

- a suitable job and pre-employment drug tests are required by a prospective employer or
- a suitable course and a pre-course drug test is required as part of the admission process by a training provider.

Suitable employment varies between clients depending on their individual circumstances. Further information regarding suitable employment for clients can be found here: www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/suitable-employment-01.html and here: www.workandincome.govt.nz/map/income-support/main-benefits/sole-parent-support/suitable-employment-01.html.

In some cases it is not appropriate to refer a client to drug tested jobs. For example, where a client:

- is taking prescribed medication
- is diagnosed with a drug addiction or dependence
- is in or awaiting treatment for a drug addiction or dependence
- has a drug issue identified by a provider and is engaging and participating in services and support offered by that provider.

Information regarding whether a client's drug test job referral is suitable can be found here: www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/drug-test-job-referral-not-suitable-01.html.

If a client refuses a drug test without a good and sufficient reason, their benefit may be affected and payments may be reduced or stopped. Information regarding good and sufficient reasons for drug test obligation failures is available here: www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/drug-test-obligation-failures-good-and-sufficient-01.html

Further information about what happens when a client fails or does not take a pre-employment drug test is available here: www.workandincome.govt.nz/on-a-benefit/not-meeting-your-obligations.html

4) Which drugs their laws, policies and criteria apply to?

Section 88A of the Act refers to section 2(1) of the Misuse of Drugs Act 1975. Schedules 1, 2 and 3 of this Act list controlled drugs. More information can be found on the New Zealand Legislation website here: <http://legislation.govt.nz/act/public/1964/0136/latest/DLM365118.html>.

5) What information MSD holds about the human endocannabinoid system and how plant cannabinoids and particularly cannabidiol ("CBD") can assist with the management of a range of chronic disorders including anxiety, PTSD, chronic pain and other nervous system and auto-immune disorders with no apparent side effects;

The Ministry is unable to provide you with information relating to the human endocannabinoid system, and how plant cannabinoids and particularly cannabidiol can assist with the management of a range of chronic disorders. The Ministry is guided by the advice of the appropriate medical experts, including Pharmac, as the Ministry is not a health provider. As such, your request is refused under section 18(g) of the Official Information Act as the information you have requested is not held by the Ministry.

- 6) *What steps MSD takes generally and/or on a case by case basis to support beneficiaries to chose medications that are safe and minimise adverse side effects to promote wellness;*

The Ministry does not make decisions about a client's individual medical management. These decisions are made by the client and their health professionals. As such, your request is refused under section 18(g) of the Official Information Act as the information you have requested is not held by the Ministry.

- 7) *What information is required by MSD to enable and/or support a beneficiary to use CBD to assist with anxiety management where this has proven to have less side effects than alternative pharmaceutical medications.*

The Ministry may provide financial support for non-subsidised pharmaceuticals if the client's medical practitioner verifies that the pharmaceutical item is essential and there are no suitable subsidised or partly subsidised alternatives. Further information about non-subsidised pharmaceuticals can be found here: <https://www.workandincome.govt.nz/map/income-support/extra-help/disability-allowance/non-subsidised-pharmaceuticals-01.html>

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely



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