

## SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

### CALPIA Employee Substance Abuse Testing

OAL File Number 2016-0426-03, including the Initial Statement of Reasons (ISOR), is incorporated by reference. CALPIA has determined the following amendments and supplements shall be included in the Initial Statement of Reasons:

#### **Information Digest/Policy Statement Overview**

**Clarification for New Subsection 8106.1(d)(2)** is provided as follows:

Although CalHR uses underground contract language to allow for 3 hours to submit a urine sample for drug testing, CALPIA is opting to regulate the time constraint to 1 hour. The reason for a one hour time limit is due to time being of the essence. Substances that enter the body begin metabolizing almost immediately and drug tests are based on specific, scientific cut-off levels. The longer an employee waits to produce urine, the more chances of the substance being metabolized to a lower concentration (cut-off level). Opting to place a one hour limit on an employee to produce urine is reasonable. It is also more cost effective to all parties involved in the process which is a savings to tax payers. Laboratories will provide free water to assist with the one hour timeframe. The employee retains the right to provide a medical excuse if he/she cannot meet the timeframe to produce the sample.

**The following passage in the ISOR describing new subsections 8106.1(d)(1)-(3) is being removed from the ISOR:**

“Refusal and non-cooperative behavior is defined as impediment; it includes but is not limited to the following actions:

- Fail to remain at the testing site until the testing process is complete and a required medical evaluation determines there was no adequate medical explanation for the failure remain and complete the process
- Fail to provide a sufficient amount of urine; at least 45 mL of urine within 60 minutes after being directed by lab personnel and a required medical evaluation determines there was no adequate medical explanation for the failure to timely provide urine
- Refuse to empty pockets when directed by lab personnel
- Behave in a confrontational way that disrupts the collection process
- Fail to wash hands after being directed to do so by lab personnel
- Fail to permit the observation or monitoring of providing of a specimen
- In the event of an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process

- Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- Admission to lab personnel or Medical Review Officer of adulteration or substitution of urine sample
- Any other act by the employee which could prevent, interfere with, or defeat the purpose of testing”

For further clarification of New Subsection 8106.1(d)(1)-(3), the language describing some types of impediment behavior is not being removed from this rulemaking file because it no longer depicts impediment; the language is being removed because it is not necessary or effective to fully describe impediment. There are thousands of ways to attempt to impede or impede a drug test which makes it impossible for CALPIA to list every type of behavior or action. Impediment behaviors will be determined on case-by-case bases. In the event an employee is caught impeding (or attempting to impede) a drug test, it will be an automatic positive result.

### **Reports Relied Upon**

For clarification purposes, the following materials were cited in the original ISOR, included in initial notice, and were relied upon. These materials are added under the heading ‘Reports Relied Upon’ in the original ISOR:

- **Federal Register, 73 FR 71858 (November 25, 2008)**
- **‘Drugs of Abuse’ 2015 Edition, Resource Guide: U.S. Department of Justice Drug Enforcement**
- **Governor's Executive Order D-58-86, dated September 24, 1986**
- **Standard Agreement Number S1150006, CalHR/Comprehensive Drug Testing, Inc. w/Amendment: Terms of Agreement (Feb 1, 2012 – June 30, 2017)**