



## TOOLKITS

# Managing Employee Assistance Programs

## Overview

An employer-sponsored employee assistance plan (EAP) is a work-based intervention program designed to identify and assist employees in resolving personal problems that may be adversely affecting their performance at work, such as marital, financial or emotional problems; family issues; or substance or alcohol misuse. EAPs may also offer a wide array of services covering basic legal assistance and referrals, adoption assistance, help finding elder care services, wellness programs, and more. See [What is an employee assistance program?](http://www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/whatisaneap.aspx) ([www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/whatisaneap.aspx](http://www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/whatisaneap.aspx))

This article discusses the cost-effectiveness of EAPs, types of programs and specialty services offered, how to select an outside EAP vendor, legal considerations, metrics and reporting, and international EAPs.

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## Business Case

Employers usually pay for EAPs, and their services are often available not only to employees but also to employees' immediate family members or to anyone living in employees' homes.

Employers have a vested interest in the ability of employees to work at or close to their full potential. EAPs are valuable resources that can help employees cope with issues affecting their ability to reach that potential. Marital and family problems, conflicts among co-workers and managers, depression, substance misuse, work-related stress, legal and financial issues, and child and elder care needs are just some of the concerns affecting employees' well-being.

These distractions may hurt productivity and drive up costs for businesses. The health care system cannot always handle these types of issues, especially those—such as needs for financial counseling or elder care help—that are not health related. EAPs are cost-effective tools to mitigate these risks. EAPs can help employers reduce absenteeism, workers' compensation claims, health care costs, accidents and grievances. In addition, they can address safety and security issues, improve employee productivity and engagement, and reduce costs related to employee turnover. According to the 2019 SHRM Employee Benefits research report ([https://shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Pages/Benefits19.aspx?\\_ga=2.74959378.1404725857.1589122394-983327203.1580229455](https://shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Pages/Benefits19.aspx?_ga=2.74959378.1404725857.1589122394-983327203.1580229455)), 79 percent of surveyed employers offered an EAP.

See:

Employers Enhance Well-Being Benefits for a Post-Pandemic Workforce ([www.shrm.org/resourcesandtools/hr-topics/benefits/pages/employers-enhance-well-being-benefits-for-a-post-pandemic-workforce.aspx](http://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/employers-enhance-well-being-benefits-for-a-post-pandemic-workforce.aspx))

Today's Young Worker Is Stressed Out and Anxious ([www.shrm.org/resourcesandtools/hr-topics/employee-relations/pages/young-workers-suffer-from-mental-health-issues.aspx](http://www.shrm.org/resourcesandtools/hr-topics/employee-relations/pages/young-workers-suffer-from-mental-health-issues.aspx))

Employing and Managing People with Addictions ([www.shrm.org/ResourcesAndTools/tools-and-samples/toolkits/Pages/personswithaddictions.aspx](http://www.shrm.org/ResourcesAndTools/tools-and-samples/toolkits/Pages/personswithaddictions.aspx))

Time for New Approaches to Employee Substance Abuse and Addiction? ([www.shrm.org/resourcesandtools/hr-topics/benefits/pages/new-approaches-employee-substance-abuse-addiction.aspx](http://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/new-approaches-employee-substance-abuse-addiction.aspx))

#### Putting Together an EAP

Employers who are considering whether an EAP is right for their organizations can begin by learning the basics—what EAPs provide, how employers contract with EAPs, critical requirements any EAP should follow and avenues by which employees access EAP services.

EAP services may include assessments of employees' needs; referrals for diagnosis and treatment of mental health, substance use or other issues; and consultation services for managers and supervisors. EAPs provide training to teach supervisors to recognize and possibly resolve behavioral-, health- or job-related performance issues. Educational and wellness programs, such as programs informing employees about healthy weight, stress management and smoking cessation, are also staples of many EAPs.

#### EAP DELIVERY MODELS

Employers have a number of options when establishing an EAP program, from keeping it entirely in-house to outsourcing every aspect of service. These are the most common EAP delivery models:

- **Management-sponsored EAPs.** These are in-house programs, and the EAP staff is directly employed by the organization. Large organizations often offer this form of EAP.
- **Fixed-fee contracts.** Employers contract for various services such as counseling, referrals and supervisory training with fees based on the number of employees, regardless of their actual EAP use.
- **Fee-for-service contracts.** Employers contract directly with the EAP provider, paying only when the service is used.
- **Consortia.** Small businesses join together to contract for EAP services, lowering the cost per employee.
- **Member assistance programs.** Provided by unions, member assistance programs (MAPs) offer services ranging from prevention and problem identification to referral and counseling activities for employees and their family members.
- **Peer assistance programs.** Sponsored by employers or unions, peer assistance programs (PAPs) train peers to work with troubled employees to address substance misuse and other problems within predetermined rules and limits.
- **Mixed-model programs.** These are used by employers and unions with multiple worksites that have different needs and resources.

#### CRITICAL REQUIREMENTS FOR AN EAP

Regardless of the vendor model, there is broad consensus around critical EAP requirements. The Employee Assistance Professionals Association (EAPA) guidelines say EAPs must have written policies ensuring client confidentiality, an adequate number of trained employee assistance professionals and formal procedures for following up with or monitoring people who use the EAP.

EAPA recommends that organizations adopt a written policy defining the EAP's relationship to the organization and stating the scope and limitations of services. The intent of a written policy statement is to provide a clear definition of the EAP's function and to make sure that all parties understand the EAP and that the EAP is used consistently throughout the organization. The policy statement should not

be confused with operating procedures or contractual agreements. Because operating procedures may need to be adjusted in response to emerging needs, they should not be incorporated into a policy document that may be difficult to modify.

EAPA's standards also include the following:

- An advisory process that involves representatives from all parts of the employer's organization, including leadership, line employees, key departments and unions.
- The ability to meet changing needs by adding services.
- Crisis intervention services available 24 hours a day, seven days a week.
- Procedures for determining when to provide short-term problem-resolution services within the EAP and when to refer a client to professional or community resources outside the EAP.
- Training for the employer organization's leaders, so those leaders learn to recognize issues and can intervene by referring employees to the EAP.
- Trained professionals who maintain and upgrade their skills.

Other components of a comprehensive EAP program include:

- Responsive account management.
- Legal and regulatory compliance (see the section "Legal Issues" below for information relevant to EAPs).
- Policy development.
- Communication and training.
- Quality local services that are sensitive to language and culture, particularly during emergencies, critical incidents and when training is needed.
- Quality and access as priorities over cost, particularly for services in remote locations or when expatriate services are involved.
- Varied methods of service delivery; phone counseling should not be the only form of service available.
- Robust websites and promotional materials customized to language and culture.
- Customized data reporting.

## **TYPES OF EAP REFERRALS**

Once an EAP is in place, employees can begin using EAP services in a variety of ways:

- **Self-referral.** Employees or family members contact the EAP directly.
- **Informal.** A friend or colleague (who may or may not have used an EAP) suggests the EAP to the employee and recommends its use.
- **Formal.** Based on observation, a supervisor, manager or HR professional recommends the EAP to an employee. Such a referral may be mandatory due to poor performance or disciplinary actions. However, a formal referral based on discipline or performance creates specific legal considerations for the employer.

## **CHOOSING A VENDOR**

When selecting an EAP service provider, an employer needs to consider the following factors:

- **Years of service, references and current clients.** Do other employers with similar workforces recommend the vendor?
- **Service location.** Will the EAP services be available onsite, offsite or both?
- **Ability to provide services to employees in different locations.** Can the provider handle clients who are not all in the same geographic area?
- **Hours of service.** Are services available to employees who work night shifts or unusual hours?
- **Scope of services.** Does the vendor offer a full range of services, such as stress management, elder care help, substance misuse programs, wellness programs and financial counseling?

- **Referrals.** Is the vendor able to refer employees to outside resources when the employees need more or different help than the EAP alone provides?
- **Follow-up services.** Is there a process for tracking clients' progress and ensuring they continue to get the help they need?
- **Credentials and training.** Can the EAP provider show that its professional employees are trained and that they hold appropriate and updated credentials?

See SHRM's Guide to Employee Assistance Programs ([www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/Pages/eap-buyers-guide.aspx](http://www.shrm.org/ResourcesAndTools/hr-topics/employee-relations/Pages/eap-buyers-guide.aspx)).

## Communications

HR generally takes primary responsibility for developing program guidelines and training employees and managers to ensure that everyone understands the organization's EAP services and how to access them. As a result, it is generally HR that develops internal documents to communicate policy requirements, changes and clarifications.

Employees will not turn to EAPs unless they understand what the programs really offer, so employers need to promote the offerings frequently. Although a majority of employees report taking steps to improve their health, the majority of employees also say they are doing so on their own—they never use their employers' EAP services. The reason for the reluctance to use EAPs may be the programs' early focus on counseling employees with alcohol problems. Employees may view the EAP as a program only for substance misuse, when today's EAPs offer much more.

In addition to providing information about the EAP's services during employee orientation and the open benefits enrollment period, employers frequently offer lunch seminars and information sessions about the EAP and how to use it. See *Underused EAPs Are a Missed Opportunity to Help Workers* ([www.shrm.org/resourcesandtools/hr-topics/benefits/pages/under-used-eaps-are-a-missed-opportunity.aspx](http://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/under-used-eaps-are-a-missed-opportunity.aspx)) and *Companies Seek to Boost Low Usage of Employee Assistance Programs* ([www.shrm.org/hr-today/news/hr-magazine/winter2019/pages/companies-seek-to-boost-low-usage-of-employee-assistance-programs.aspx](http://www.shrm.org/hr-today/news/hr-magazine/winter2019/pages/companies-seek-to-boost-low-usage-of-employee-assistance-programs.aspx)).

## Legal Issues

Because EAPs often deal with issues involving mental health, employee discipline and confidentiality, employers that provide EAP services must be aware of legal concerns surrounding those services.

## **MANDATORY REFERRALS**

A formal, mandatory referral to an EAP (as opposed to a voluntary referral in which the employee chooses to seek the EAP's help) should almost always occur with the employee's consent. In extreme cases in which a formal referral may be warranted, employers must make certain that the employee has a documented performance problem in addition to appearing to be depressed, suicidal or potentially hostile.

In the case of formal or supervisory referrals, employers typically discuss their perceptions of the work performance problems with the EAP counselor on the front end (although not necessarily in front of the employee). With a signed release from the employee, the EAP would later be able to provide the employer with limited feedback about the individual's attendance, compliance and prognosis. When issues arise about potential workplace violence, an employer has the option of not permitting the individual to return to work without a "fitness for duty" certification from a licensed health care practitioner.

Employers should be cautious about using the threat of termination to force an employee to attend mandated counseling. If the employer makes such a threat, the employee might then claim disability discrimination based on a perceived mental disability. The employee might also be able to claim invasion of privacy or the misuse of confidential medical information. See *Can an employer*

require an employee to use the services of an employee assistance program? ([www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/cananemployerrequireanemployeetousetheservicesofaneap.aspx](http://www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/cananemployerrequireanemployeetousetheservicesofaneap.aspx))

## **CONFIDENTIALITY**

A critical component of an EAP program is confidentiality. Federal law requires confidentiality of alcohol and drug use records, and it provides penalties for unlawful or unauthorized release of information. These same regulations also prohibit the implicit or negative disclosure of information. As a result, EAPs may not release any information without signed consent, regardless of the nature of the problem.

Information is usually only available to the employer if the employee provides written permission. This general rule has two exceptions:

- The employer may receive a general report from the EAP with totals of services provided and types of problems addressed.
- When counseling is mandatory due to disciplinary problems, the EAP may inform the employer about whether the employee is attending required sessions. The employer may also inquire about the employee's progress.

Employees are likelier to use EAP services if employees know their use of the EAP will be confidential. Conversely, if employees believe that use of these services will have a negative impact on their careers, they will avoid using the EAP if possible.

## **MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008**

The intent of the Mental Health Parity and Addiction Equity Act is to ensure that coverage for mental health and substance misuse treatment, including depression and addiction, is treated fundamentally the same as other physical ailments. The act prohibits group health plans that provide mental health or substance use addiction benefits from setting higher co-payments and deductibles or imposing stricter limits for the treatment of mental illness or substance misuse.

The regulations also mandate that an EAP cannot be used as a gatekeeper—in which members are required to use the EAP before accessing mental health or substance use addiction benefits—unless a similar program is required for medical and surgical benefits. The parity requirements apply to U.S. employers with 50 or more workers whose group health plans offer mental health or substance use disorder benefits.

## **ERISA, ACA AND COBRA**

EAPs that offer medical benefits such as direct counseling and treatment, rather than just referrals for counseling and treatment, are regulated under the Employee Retirement Income Security Act (ERISA) and are subject to COBRA regulations. If the EAP does not provide services directly but only provides referrals and helps employees obtain those services, it is not considered a group health plan and is not subject to COBRA regulations.

The Patient Protection and Affordable Care Act (PPACA, or ACA) also addresses the issue of whether an EAP is a group health plan or is an "excepted benefit" in that it does not provide significant medical care and is therefore exempt from most of the ACA rules. See *Is an employee assistance program (EAP) subject to COBRA? Is it considered an excepted benefit under the PPACA?*

([www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/eapandcobra.aspx#sthash.Y6l4jH51.dpuf](http://www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/eapandcobra.aspx#sthash.Y6l4jH51.dpuf))

## **HIPAA**

The Health Insurance Portability and Accountability Act (HIPAA) privacy rule establishes national standards to protect an individual's medical records and other personal health information. Substance use addiction treatment programs that are subject to HIPAA must comply with the privacy rule.

The rule applies to health plans, health care clearinghouses and health care providers. The rule requires appropriate safeguards to protect the privacy of personal health information and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The rule also gives patients' rights over their own health information, including rights to examine and obtain a copy of their health records and to request corrections.

### **THE AMERICANS WITH DISABILITY ACT'S POTENTIAL IMPACT**

Although mandatory referrals may be justified in situations involving threats of violence or suicide, recent case law shows that formal EAP referrals have created legal burdens on employers under the Americans with Disabilities Act (ADA). Specifically, plaintiffs' attorneys have argued that the employer making the referral to the EAP did indeed perceive that its client had a disability. The ADA and some state disability discrimination laws protect individuals who either have or are perceived to have a disability, including a mental disability. Such an interpretation could become legally problematic should the employer then decide to take an adverse action against the employee.

### Metrics and Reporting

Measuring the usefulness and value of an EAP can prove tricky. Many employers do not even try to measure whether EAPs are worth the money. The U.S. Department of Health and Human Services reports that "all of the published studies indicate that EAPs are cost-effective." And the U.S. Department of Labor reports that for every dollar invested in an EAP, employers generally save anywhere from \$5 to \$16.

### **USE RATE REPORTING**

The most commonly calculated measurement of EAP performance is the use rate, which measures how much employees are using EAP services. But this measurement has no consistent definition, and little research has been done on EAP benchmarking, so linking the use rate to the employer's business goals is difficult. Employers should look not only at the EAP's use but also at indicators such as the number of employee and dependent cases opened, the follow-up services provided, employee education programs, and management training programs. Employers should also look at EAP services not related to individual cases, such as consultations with workgroups or debriefings to alleviate stress after critical incidents. See *Benchmarking HR Metrics* ([www.shrm.org/ResourcesAndTools/tools-and-samples/toolkits/Pages/Benchmarking\\_HR\\_Metrics.aspx](http://www.shrm.org/ResourcesAndTools/tools-and-samples/toolkits/Pages/Benchmarking_HR_Metrics.aspx)).

### **CUSTOMIZABLE REPORTS**

Many employers report dissatisfaction with their EAP use reports and the need to reformat those reports for internal use. Most often, EAP use reports are merely operational metrics, providing little value to the purchaser and offering little insight into the value or outcomes of the program.

To remedy these shortcomings, EAP reports should be customized for the end user, provide useful operational metrics and measure the variables that matter to the employer, such as clinical outcomes, the EAP's influence on productivity, and the EAP's impact on disability and health care costs. The bottom line is that EAP providers should be required to validate the efficacy and results of their programs and services. The employer should require its providers to demonstrate the usefulness of the services provided based on both quantitative measures (such as outcome-based survey tools) and qualitative information (such as case studies).

### Global Issues

Employers with workers in locations outside the United States will find that offering an international EAP can help support employees and maintain productivity. If employers lose expatriate or local workers due to stresses or burnout, the employer's investment in those employees is lost. An international EAP makes business sense because it protects that investment.

### **WHICH CLIENTS AND WHAT NEEDS?**

Clients for an international EAP include expatriates on short- or long-term assignments and their family members. International permanent hires, business travelers temporarily in a host country, local employees and even virtual managers on global teams are all potential clients for these EAPs.

The issues facing these employees can be different from those facing domestic employees, and the EAP must be capable of providing services to help employees handle culture shock, isolation, stress from an international move, separation from family members, concerns about elderly parents living in the employee's country of origin, and the stresses of daily life in another country.

Qualified international EAP professionals must understand the dynamics of culture shock and should be familiar with the challenges of living abroad. In some countries a cultural stigma regarding mental health treatment may be present, making employees reluctant to approach an EAP for assistance.

### **CHOOSING AN INTERNATIONAL EAP**

Generally, purchasers of global EAP products fall into two camps—those that seek to implement a single, global EAP model and those that manage a series of regional or local vendors around the world.

In theory, a single vendor model for global EAPs is ideal in its promise of broad geographical coverage, ease of communication, centralized account management and standard data reporting. The question is whether international EAP vendors can deliver a globally scaled program that meets the complex needs of international employers. There is some debate that a single vendor can manage complex contractual and legal issues across international lines and have strong knowledge of local providers, work cultures and approaches to mental health care.

To counter those limitations, decentralized EAPs are organized around many local and regional agreements with those perceived as the best local providers; however, employers favoring a single global provider claim this multilocal approach is too cumbersome and difficult to manage. Multiple contracts across many vendors leave room for inconsistent and inefficient global programming. A lack of communication and coordination of services when a multinational response is needed can create problems.

The debate boils down to knowledge, resources and the "build or buy" dilemma that many employers routinely encounter. If the employer has the time, budget, knowledge and volume of employees to essentially construct its own global network, the decentralized model has benefits. For employers with more constraints on their resources, relying on a single, central vendor is probably the better path.

Whatever model an employer chooses for an international EAP, making a business case for investing in it can be tougher than for a domestic EAP. If the employer does not value, promote or use its domestic EAP, leadership will unlikely back an investment in a global one. And in some cultures, the North American concept of counseling may not be familiar or accepted, so local offices may be resistant to the idea of EAP services.

Templates and Tools

### **SAMPLES**

Employee Assistance Program (EAP) Policy: For Employees Only ([www.shrm.org/ResourcesAndTools/tools-and-samples/policies/Pages/cms\\_006399.aspx#sthash.cwnWSdtH.dpuf](http://www.shrm.org/ResourcesAndTools/tools-and-samples/policies/Pages/cms_006399.aspx#sthash.cwnWSdtH.dpuf))

Employee Assistance Program (EAP) Policy: For Employees and Family Members ([www.shrm.org/ResourcesAndTools/tools-and-samples/policies/Pages/cms\\_000565.aspx#sthash.mWiWfDXh.dpuf](http://www.shrm.org/ResourcesAndTools/tools-and-samples/policies/Pages/cms_000565.aspx#sthash.mWiWfDXh.dpuf))

#### **AGENCIES AND ORGANIZATIONS**

National Institute of Mental Health (<http://www.nimh.nih.gov/>)

Substance Abuse and Mental Health Services Administration (<http://www.samhsa.gov/>)

International Employee Assistance Professionals Association (<https://www.eapassn.org/>)

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