
Psychological Fitness for Duty Evaluations

There are a variety of scenarios under which employers need to make an administrative decision based, at least in part, on an employee's current psychological status. Examples of these types of scenarios include when an employee:

- Makes a threat of violence toward a co-worker or the workplace and the employer wants to know the extent to which the employee poses a safety risk at work as part of its threat assessment process.
- Requests accommodations due to a psychological condition and the employer needs additional information and recommendations as it considers whether it will make accommodations for the employee.
- Behaves in a bizarre manner; has changes in mood, impaired concentration or paranoid thinking; or displays abusive or intimidating behavior, and the employer has reason to believe that the employee's medical or psychological condition is currently hampering his or her ability to execute required job responsibilities.
- Is in a safety sensitive position, and is making potentially dangerous mistakes or is exhibiting other symptoms of performance impairment.

EAP Assessment and Care Coordination Versus Forensic Psychological Fitness for Duty Evaluations

As your Employee Assistance Program (EAP), PAS is highly cognizant of the important differences between clinical assessments performed for treatment purposes and forensic psychological Fitness for Duty/Violence Risk evaluations. As part of performance improvement plans, supervisors often request that an employee seek consultation from the EAP when there has been a noticeable decline in the employee's job performance or when the employee violates certain company policies such as substance use, violence, harassment, or personal and professional conduct. The EAP confidentially helps the employee to identify and resolve personal work/life concerns that are contributing to job performance problems and, with the employee's permission, reports compliance with EAP recommendations to the referring supervisor.

In providing assessment, counseling, and care coordination services, EAP professionals establish a counselor/client relationship. In contrast, psychological Fitness for Duty/Violence Risk evaluations help employers make managerial decisions based on employee psychological status. FFD evaluations are not treatment services. The evaluating doctor does not establish a doctor/patient relationship with the employee. Instead, the evaluating doctor is independent, hired to objectively assess the employee without establishing a potentially conflicting treatment relationship. The forensic professional's primary allegiance is with the employer.

Selecting FFD Evaluation Services

Following standards of best practice in this area, PAS recommends that employers contract with neutral third party FFD facilitator organizations to conduct and coordinate evaluations with credentialed forensic psychologists and psychiatrists. An independent FFD facilitator organization has the ability to schedule evaluations with a member of its approved panel of forensic specialists, perform quality assurance services and take measures to reduce any legal

risks in the process. The FFD facilitator organization provides oversight to ensure that the evaluation:

- follows consistent and standardized assessment and reporting protocols;
- uses empirically based psychological testing;
- maintains independence from the employer or EAP to avoid any perceived conflict of interest;
- is performed by a licensed psychiatrist or psychologist with expertise in forensic evaluation;
- is conducted with consideration of relevant state and federal statutes, case law, and other legal requirements related to employment and personnel practices (disability, privacy, third-party liability).

Many situations involving a FFD evaluation also warrant a *concurrent* performance improvement referral to the EAP. The role of the EAP is to arrange appropriate care for the employee, monitor compliance with treatment, report the status of compliance to the employer, and provide support in implementing the independent examiner's recommendations.

Arranging FFD evaluation services

During the initial call, the FFD facilitator organization and forensic evaluator will ask the referring employer for appropriate background on the employee's situation, including information such as:

- Description of the concerns regarding the employee's performance, ability to perform job functions and/or comply with company policies;
- Job description, essential functions of the job, safety sensitive status;
- Names of potential collateral informants (spouse, supervisor or co-worker);
- Names of current treating professionals (if known);
- History of threats towards self or others (if there is a current threat toward others, have the individuals at risk been warned?);
- Known history of violence at work or elsewhere;
- Conflict between employee and co-workers/ supervisor;
- Known history of exposure to trauma;
- Past arrests; wage garnishments;
- Employee's acknowledgement/understanding of the employer's current concerns regarding performance, behavior at work, ability to perform his or her job;
- What information the employer is seeking from the evaluation and why (the FFD facilitator will assist the employer in crafting questions to be posed to the evaluator)

Topic areas for the evaluation generally include:

- Whether there is psychiatric evidence at this time that this employee presents an increased physical risk (compared to the general population) to self or others at the workplace;
- Findings that would likely prevent this employee from safely and competently performing tasks at work;
- Comments on the adequacy of the employee's current treatment and/or educational plan(s);

- Suggestions with regard to methods of treatment or education that would optimize recovery and inform a return to work plan, if appropriate;
- Recommendations for additional assessment (such as neurological evaluation, drug testing, follow-up evaluation, etc.);
- Suggestions to help management work effectively with the employee, including any recommended changes in the work environment (shift, location, equipment, etc.);
- Whether there is evidence that the employee has the ability to control problem behavior at the workplace.

Employer Responsibilities

It is solely the employer's responsibility to decide whether to refer an employee for a FFD evaluation based upon the employer's policies. It is also the employer's responsibility to inform the referred employee about the requirement for the evaluation. It should be conveyed to the employee that the FFD evaluation is *not* a therapeutic service nor is it a disciplinary action.

The employer is responsible for paying for the FFD evaluation. It is also the employer's sole responsibility to make decisions regarding retaining, accommodating or dismissing employees pursuant to company policy. The FFD evaluation can address current risk factors but the findings are time-limited, and the ability to absolutely predict dangerous behavior in the near or distant future is not possible.

PAS recommends that employers consult with legal counsel before referring any employee for a FFD evaluation. The situation should be carefully reviewed to ensure compliance with ADA rules and company policy.

For management consultation services, contact Personal Assistance Services at (800) 356-0845.