

EAP—it's there to help you



**Manuel L.
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Article 35, Section 1 of the National Agreement closes with the following contractual obligation:

An employee's voluntary participation in the EAP for assistance with alcohol and/or drug abuse *will be considered favorably* in disciplinary action proceedings. (Emphasis added).

What does that commitment mean when applied to our letter carriers battling addiction to alcohol or drugs? I recently reviewed an arbitration award (C-37283) that I will share with you as follows.

The basic facts in that case are that the grievant had been observed ingesting drugs while under

surveillance by agents of the Office of the Inspector General (OIG). When confronted, she initially denied the allegation but then admitted and acknowledged using drugs.

Subsequently, the grievant entered a recovery center based on a recommendation from her branch president. The arbitrator notes that:

While in this center she began speaking with an EAP [counselor] in whom she gained confidence because she seemed to understand her situation. She attributed her lack of success with prior EAP counselors to the fact that when an issue was brought to EAP, only three sessions would be scheduled. She related that she became frustrated with the counselors she was engaging because they did not want to immediately discuss issues Grievant was having with drugs, insisting that they should talk about her mental health first.

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The Union respectfully submits that the evidence overwhelmingly demonstrates Management's failure to adhere to the express provisions of the National Agreement, specifically Article 35. This Article is not merely a guideline; it is a binding commitment to support employees confronting the disease of addiction, and to consider their voluntary participation in EAP favorably in disciplinary actions.

The arbitrator then recounted the efforts made by the grievant, her years of service (bank of goodwill) and that she did precisely what Article 35 encourages: that she voluntarily sought help through the Employee Assistance Program (EAP), that she completed a 30-day inpatient treatment program, continued the program,

and that she maintains her sobriety. The arbitrator indicated that:

[T]hese are undisputed facts, yet Management chose to ignore them at every level of the grievance procedure, opting instead for the ultimate punitive penalty of removal. This decision stands in stark contrast to the spirit and letter of Article 35, which aims to rehabilitate the most important asset of the postal service, its employees.

...

The Union provided strong evidence that Grievant has actively sought help and has made significant progress in addressing her four-year drug and alcohol addiction. Grievant provided credible testimony that in the months prior to the charged misconduct she had struggled with her initial interactions with EAP. Grievant provided documentation that she entered inpatient treatment just over two weeks after she was placed in emergency off duty status. According to the documentation provided, she was randomly tested for drugs and alcohol throughout her stay. She successfully completed a 30-day inpatient residential treatment program and was released for a return to work without restrictions.

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Article 35 ultimately places the burden on Management to show that it gave favorable consideration to Grievant's rehabilitative efforts during its disciplinary proceedings. Based on this record, Management failed to show that it favorably considered Grievant's commendable rehabilitative efforts. Clearly, no serious consideration was given to Grievant's medical documentation...

And while [the Postmaster] testified that she considered Grievant's efforts and her responsibilities under Article 35, the NOR includes no acknowledgment of Grievant's efforts to combat her disease or how, or if, Management took these efforts into consideration before deciding to remove her....And the [concurring official] acknowledged at hearing that at the time of his concurrence, he was unaware of the provisions of Article 35.

Kudos to Daniel J. Gordon, our arbitration advocate, and to the officers and stewards of Southeast Massachusetts Merged Branch 18 who contributed to the successful outcome of this case.

In reading the award, it is clear that the grievant ran into roadblocks that should not have been there. EAP is intended for short-term counseling, which has been defined as up to 12 sessions, but it is clear that the grievant in this case was advised that she was limited to just three sessions.

If you, in reaching out to EAP, are notified that you are allowed only three sessions, please bring this to my attention so that I can get the problem addressed. Please contact me or leave me a message at the office: 202-662-2831.

Keep an eye on each other.