

MASSMART

HIV/AIDS/STD's Policy and Procedures

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1 INTRODUCTION

HIV/AIDS is having far-reaching economic effects for employers, employees and South Africa as a whole. Unlike any other life threatening chronic illness, HIV/AIDS incorporates contentious issues such as sex, sexuality, race, religion and drug use. There is still a great deal of ignorance and disbelief about the epidemic and many myths and misconceptions about HIV/AIDS which are hampering preventative efforts.

The HIV/AIDS epidemic poses one of the greatest challenges to business development in South Africa. The epidemic claims some of the best business leaders, managers and a great number of workers at all levels. HIV related absenteeism, loss of productivity and the cost of replacing staff lost to AIDS threatens the survival of a number of businesses and industrial sectors in the increasingly competitive world market.

It is clear that no sector can alone make significant inroads into the fight against the HIV/AIDS epidemic. A true partnership involving government, the private sector and the community is essential to face up to the problem. The business community is realising that its very survival depends on how effectively it joins forces with other partners to face the problem. The workplace provides an excellent environment to implement a comprehensive HIV/AIDS programme and policy reform.

2 AIM OF THE POLICY

A comprehensive HIV/AIDS and STD's policy is important because it is central to the development and implementation of an effective workplace programme. It provides a framework for action.

This HIV/AIDS and STD's policy defines Massmart's position and practices in relation to employees with HIV/AIDS and STD's and to the prevention of the spread of HIV and STD's.

This policy prepares Massmart to face the presence of HIV infection and AIDS. It demonstrates Massmart's concern and commitment to taking active steps to manage the HIV and AIDS epidemic.

3 POLICY

3.1 EMPLOYMENT

Massmart will not unfairly discriminate against employees or potential employees on the basis of their HIV status alone. The legal requirements of the Labour Relations Act (1996) will apply to employees and recruits with HIV.

Employees with HIV will be dealt with in a fair manner and fitness to work for the reasonable foreseeable future will be the sole criteria for employment selection and for continued employment.

HIV status alone in absence of any signs or symptoms of advanced immune deficiency will not be an indication to exclude recruits from employment.

3.1.1 PRE-EMPLOYMENT

HIV status will not form part of the pre-employment screening process.

3.1.2 CONTINUED EMPLOYMENT

HIV status alone will be not used in any way to discriminate against an employee with regards to continued employment, training, promotion, privileges and usual opportunities.

Grounds for disability or dismissal due to incapacity will only be made after there has been a full and complete health status assessment in accordance with The Code of Good Practice on Dismissal, which is attached to the Labour Relations Act and requires an employer to:

- Investigate the extent of the incapacity or injury;
- Investigate alternatives to dismissal including the possibility of adapting employee's duties or accommodating the disability;
- Follow a fair procedure in effecting the dismissal.

An employee is not under a legal obligation to disclose their HIV status during an incapacity dismissal. However, the employer should strive to create an environment of mutual trust within which employees will be able to be open about their HIV status.

Dismissal should be the last resort and the following factors should be taken into account before deciding to terminate the employee's services:

- The ability of employees with HIV to continue working satisfactorily in their present position and the possibility of transferring to lighter/less stressful duties;
- The possibility that continued employment is against the employee's interest (for example, the continual stress of working may accelerate their illness);
- The possibility that continued employment is not in the employer's interest (for example, the employee is no longer able to perform their job satisfactorily);
- The presence/absence of caregivers (for example, families, relatives, other care facilities) to provide support for employees with HIV.

3.2 EMPLOYEE BENEFITS

Medical assistance will be provided for employees with HIV and AIDS through Massmart's Impilo Wellness Programme or through the employee's own medical aid scheme. If an employee is no longer able to continue in employment due to ill health, the company's rules governing disability and incapacity will apply.

3.3 CONFIDENTIALITY

Any information regarding an employee's HIV/AIDS status will be kept strictly confidential and there will be no discrimination, victimisation, ostracisation or rejection of any employee with HIV/AIDS. Every employee has a common law right to privacy. This means that an

employee does not have a legal duty to inform their employer of their HIV status, nor may a health care worker reveal the HIV status of an employee to their employer without consent.

Any practices of discrimination, victimisation, and ostracisation or rejection of any employees with HIV/AIDS will be dealt with along the normal disciplinary procedures.

Any offenders will be counselled as to the safety of working with people who have HIV/AIDS and given the required warning to refrain from such actions. In the event of ongoing discrimination against employees with HIV/AIDS the offender will be dealt with in the appropriate manner which may include dismissal.

3.4 POLICY REVIEW

This policy will be reviewed on an annual basis, in order to keep the policy appropriate and abreast of the latest developments and national and international standards. Regular review and auditing of the policy is necessary.

As a working document this policy must take into consideration new developments in the HIV/AIDS and STD's field in the workplace. All new policy recommendations will be appropriately tabled and new decisions agreed upon by the parties involved.

3.5 LEGAL ISSUES

3.5.1 GENERAL PRINCIPLE

People with HIV/AIDS may not be discriminated against in the workplace. People with HIV/AIDS are protected by the constitution and the Labour Relations Act from arbitrary and unfair discrimination based on their HIV status.

3.5.2 SUMMARY OF RELEVANT LABOUR LEGISLATION CONSTITUTION

The Constitution gives all employees the right to "fair labour practices". Furthermore, the equality clauses state that everyone is entitled to equality and freedom from unfair discrimination.

Labour Relations Act (LRA)

The LRA regulates the relationship between employers and employees. It prohibits unfair discrimination and protects employees against arbitrary dismissals.

In outlawing discrimination the LRA states that it is an unfair labour practice if:

- An employer unfairly discriminates against the employee on a number of grounds,
- An employer acts unfairly in promoting, demoting, providing training opportunities or supplying benefits to the employee,
- Discipline is arbitrary or the employer fails or refuses to reinstate or re-employ in terms of an agreement.

This Act therefore protects employees from being dismissed simply because they are HIV-positive and from being discriminated against with regard to employee benefits, staff training and other work-related opportunities.

Employment Equity Act

No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth.

Basic Conditions of Employment Act

This Act sets out the minimum employment standards to which every employee is entitled. It therefore sets out, amongst others, maximum working hours and the minimum numbers of days of sick leave every employee is entitled to.

Occupational Health and Safety Act

This Act requires employers, as far as it is reasonably practical, to create a safe working environment. In an HIV/AIDS context, this can be interpreted to mean that employers must ensure that universal precautions are used when responding to an occupational accident. Furthermore, employers should ensure that proper equipment, needed to protect staff against possible infection and appropriate training in the use of universal precautions, is provided.

Compensation for Occupational Injuries and Disease (COID) Act.

This Act provides compensation for employees who are injured in the “course and scope” of their employment.

3.6 OCCUPATIONAL EXPOSURE TO HIV

Accidental transmission of HIV/AIDS in the workplace may occur when either the victim of an accident or the person(s) who respond to administer first aid has HIV. Any accident or blood spillage should be considered a possible source of infection since the HIV/AIDS status of people in the workplace is not known. It is very important to make sure that the necessary equipment and skills are available to protect all workers. These should be applied consistently to any accident and/or injury, regardless of what the person’s HIV status is. Universal infection control procedures also control the spread of other dangerous infections such as hepatitis. The Health Professions Council of South Africa provides guidelines for universal precautions.

3.6.1 BASIC PRINCIPLES OF INFECTION CONTROL

If there has been an accident in the workplace and body fluids or blood is present, the following should always apply:

- Those giving first aid should assume that all patients have HIV and should avoid any contact with blood or other body fluids. This is done by covering any cuts or sores with waterproof plasters and wearing plastic or latex gloves. If no gloves are available the hands can be covered with plastic bags tied around the wrists. If blood does get onto the skin it must be washed off with hot soapy water as soon as possible.
- Blood spills on floors or other surfaces should be treated with a disinfectant (for example, bleach) before being wiped up with absorbent paper.
- A first aid kit must be available and should contain the following: plastic or latex gloves, waterproof plasters, cotton wool, bandages and antiseptic.

3.6.2 SUSPICION OF WORKPLACE HIV INFECTION

Employees are covered by the Compensation for Occupational Diseases and Injuries Act. They may therefore be compensated for disease and injuries contracted in the course and scope of their employment. Specifically, an employee who contracts HIV as a result of an accident at work will be entitled to compensation.

Therefore, if there is a possibility that an employee has been exposed to HIV during an occupational accident then:

- An accident report should be completed and forwarded to the Workman's Compensation Commissioner;
- Normal medical procedures must be followed (treatment of injuries and so on) to support the claim;
- The employee should be tested for HIV to determine their baseline status;
- Any other person who has been involved in the accident should be tested with their informed consent;
- The employee, if HIV-negative at the time of the accident, should be re-tested at three and six months after the accident;
- If the employee sero-converts during this period, an application for compensation can be made.

4 PROCEDURES

4.1 BENEFITS PROVIDED BY MASSMART TO EMPLOYEES WITH HIV/AIDS

4.1.1 IMPILO WORKPLACE WELLNESS PROGRAMME

The Impilo programme is outsourced to Alexander Forbes Health Management Solutions (AFHMS), a division of Alexander Forbes Financial Solutions. AFHMS are the confidential custodians of all HIV related data and this information is not disclosed to Massmart unless the employee has given their consent. AFHMS provide monthly reports which update Massmart on the VCT uptake and HIV prevalence within the Group.

24-hour Toll-free Wellness Helpline

Impilo gives the permanent employee and their family access to a 24-hour toll-free wellness helpline offering confidential telephonic support, advice and assistance on any medical health question. The helpline is operated by medically qualified personnel and can assist in at least nine out of the eleven official languages during each shift.

The case managers at the call centre are experienced in assessing employees who have recently received their HIV positive diagnosis and will ensure that the employee receives additional face to face counselling if necessary.

Voluntary Counselling and Testing

Voluntary Counselling and Testing days are held at Massmart sites throughout the country at least once a year. This affords the permanent employee the opportunity to test for HIV in a safe and confidential setting that is also convenient to their place of work. The onsite VCT days incorporate information sessions which educate the employees about HIV and AIDS and provide a forum where employees can ask questions. The actual test takes place in a private room where the nurse counsels the employee first and obtains their signature on the consent form before proceeding with the test. In most cases, the rapid finger-prick test is done and the employee is given the results within 15 minutes of testing. The nurse counsels the employee about the result and encourages them to seek assistance from the wellness toll-free helpline.

If the employee does not feel comfortable about testing onsite, the facility is available for them to take their Impilo card to their GP or a pathology laboratory and to have their VCT done offsite. In this case, an Elisa test is done and the employee must return to their doctor a few days later to receive the result. The doctor or nurse at the pathology laboratory ensures that full counselling is done.

HIV/AIDS Treatment

The Impilo Programme pays for treatment for HIV and AIDS for all permanent employees and their spouses. The Impilo treatment programme includes outpatient treatment which incorporates:

- Laboratory tests to determine stage of HIV/AIDS
- Pre-HAART¹ which includes vitamin supplements and vaccinations
- HAART when clinically indicated or CD4² count drops below 200
- Special investigations to screen for and diagnose opportunistic infections

The employee goes to a doctor of their choice and their doctor can obtain advice and assistance in managing the patient's condition through the Impilo programme.

Employees can opt to go onto their medical aid HIV/AIDS treatment programme if they are a member.

¹ HAART stands for Highly Active Anti-retroviral Therapy

² CD4 count is the count for the immune cells which become depleted once the HIV virus multiplies rapidly and AIDS develops

Inpatient care is for the employee's medical aid to cover or the employee will be referred to the government facility.

4.1.2 HEALTH CARE ARRANGEMENTS – MEDICAL AID

Employees who are on a medical aid have the option to receive their medical management for HIV and AIDS through their medical aid's HIV/AIDS Management Programme since HIV/AIDS is now a prescribed minimum benefit.

4.1.3 DISABILITY BENEFITS

See "Disability Policy for Massmart".

4.1.4 DEATH BENEFITS

As per the Massmart Employee Handbook.

4.1.5 UNEMPLOYMENT INSURANCE FUND

This is as per Government Gazette UIF Policy:

- The Unemployment Insurance Fund pays an illness benefit of up to 6 months to qualifying workers,
- The maximum benefit paid is equal to 45% of weekly/monthly earnings,
- The claimant must have been in employment and contributed to the Fund for a minimum period of 13 weeks before illness benefit is paid.
- The benefit paid is: 1 week for every 6 weeks of contributory employment

5 GENERAL

If you require any further information regarding HIV/AIDS please contact Massmart's Employee Benefits Division; Alexander Forbes Health Management Solutions on 011 269 0403 or the Impilo Wellness Helpline on 0800 448 032.