(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or
(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) Health and other services

Notwithstanding subsection (a) and section 12211(b)(3) of this title, an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) “Illegal use of drugs” defined

(1) In general

The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) Drugs

The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act [21 U.S.C. 812].

References in Text

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

Section 12102 of this title, referred to in subsec. (a), was amended generally by Pub. L. 110–325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3555, and, as so amended, provisions formerly appearing in par. (2) are now contained in par. (1).

Prior Provisions

A prior section 512 of Pub. L. 101–336, which amended former section 706 of Title 29, Labor, was renumbered section 513.

§ 12212. Alternative means of dispute resolution

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, mini-trials, and arbitration, is encouraged to resolve disputes arising under this chapter.

References in Text

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

Prior Provisions

A prior section 514 of Pub. L. 101–336 was renumbered section 515 and is classified to section 12213 of this title.

§ 12213. Severability

Should any provision in this chapter be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the chapter, and such action shall not affect the