US Department of Labor

Occupational Safety and Health Administration
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Reply to the attention of: Erin G. Patterson

August 7, 2015

Paula Gray
Safety, Health and Risk Control Manager
Allen Harim Foods, LLC
126 N. Shipley Street
Seaford, DE 19973

Dear Ms. Gray:

Following an inspection conducted at your facility located at Harbeson, Delaware, from 12/16/2014 to 06/15/2015, OSHA issued citations for ergonomic hazards and recordkeeping violations. During the inspection we also identified characteristics of the facility's medical management program that pose several important problems that contribute to the likelihood of both of these types of violations, and of workers developing serious musculoskeletal disorders (MSDs). OSHA's Office of Occupational Medicine and Nursing also reviewed this evidence and has raised a number of concerns described below.

Organization and Structure of Allen Harim's Foods, LLC Medical Services

Allen Harim Foods, LLC provides medical care to its workers through a first aid station staffed by emergency medical technicians (EMTs). The EMTs are supervised by the corporate safety officer, Paula Gray, who has no medical training. Dr. Aaron Green, a local physician who is Board Certified in Occupational Medicine, has signed off on Allen Harim's Foods, LLC Medical Directives, but does not provide direct supervision of the EMTs. Allen Harim Foods, LLC has no contract with Dr. Green, and he does not review or counter-sign the EMTs' medical records or logs. Furthermore, Dr. Green has not been asked by Allen Harim Foods, LLC to provide training to the EMTs regarding the Medical Directive protocols, algorithms, musculoskeletal disorders or ergonomics. There does not appear to be specific training on musculoskeletal injuries and symptoms related to ergonomic hazards and EMT training appears to be "on the job".

It is our understanding that an EMT working in Delaware must be licensed in Delaware and be supervised by a physician. The information we have at present indicates that none of the three EMTs currently working at Allen Harim Foods LLC have a Delaware EMT license. Although the EMTs told the OSHA compliance officer that they work "under Dr. Green's license", this

was not confirmed by Dr. Green. Dr. Green does not serve as the medical director at Allen Harim Foods, LLC; he does not supervise the Allen Harim Foods, LLC EMTs; and no other physician has been identified as their supervisor.

The Delaware State Fire Prevention Commission and Delaware State Fire School provide the training and certification for EMTs in Delaware. Review of the training programs and protocols of these organizations revealed no subject matter regarding occupational health, musculoskeletal disorders or ergonomic hazards. The EMT course focuses on preparing students to provide emergency medical services "to appropriately assess, stabilize, monitor, and transport pre-hospital patients" (Delaware State Fire Prevention Commission). In essence, EMTs' scope of practice is primarily assessment, stabilization and treatment of acute injuries and illnesses before and during transport to a higher level provider, usually at a hospital emergency department.

Regarding the day-to-day functioning of the First Aid station, information from interviews and review of the EMT logs indicates that the First Aid station is being used as a vehicle to prevent worker injuries from becoming OSHA recordable or worker compensation cases, particularly in regard to musculoskeletal symptoms and injuries due to ergonomic hazards. Yet, Allen Harim's Foods, LLC Ergonomics Program states that reporting of symptoms and injuries is important in identifying and correcting ergonomic hazards. Regularly evaluating trends in the First Aid logs and OSHA 300 logs is a key component of an ergonomics program and can be used both to identify risks and assess interventions. OSHA does not believe this is happening at Allen Harim Foods, LLC.

We are concerned that the organization, structure and staffing of Allen Harim's Foods, LLC First Aid station is deficient. The EMTs are not adequately supervised from a medical and professional point of view and appear to be working without Delaware EMT licenses. Further, based on the information OSHA has received, the EMTs do not have the experience or training to adequately evaluate and make decisions on musculoskeletal symptoms and injuries related to ergonomic hazards and may be working outside their scope of practice.

Medical Management of Musculoskeletal Disorders (MSDs)

Our Office of Occupational Medicine and Nursing (OOMN) reviewed the EMT logs/medical records of 206 Allen Harim Foods, LLC employees. Of these, 112 were seen by the EMTs for one or more musculoskeletal symptoms or injuries (MSDs). The following medical management concerns were noted:

- The Allen Harim Foods, LLC Medical Department Directives for treatment and referral of MSDs were not followed for a number of MSD cases. Some workers were seen ten times or more by the EMTs without referral to a physician or other higher level healthcare provider for definitive evaluation and treatment.

- Some workers who asked to be seen by a doctor were not referred to a doctor either promptly or at all. Only 15% of the MSD cases reviewed were referred to a doctor. Seven workers referred themselves to a doctor.
- Some workers suffered recurrent MSDs and were not referred to a physician or other higher level provider. The Medical Department Directives do not provide guidance or direction on what the EMTs should do regarding recurrent symptoms or injuries, or for that matter, worsening MSD symptoms or injuries.
- 57% of MSD cases were put on work restrictions by the EMTs. It is unclear whether or not the restrictions were successful in resolving the injury. In some cases, workers asked to be returned to regular duty so that they could continue to be in the bonus program, which is identified as a monetary incentive to continue working in positions that do not rotate (cone loader and shoulder cut/2nd cut) even though they are identified as having ergonomic risk factors.
- Many of the EMT logs appear to be incomplete, such as missing visit notes. Many cases did not have the musculoskeletal protocol forms, although the EMT interviews suggested that some protocol components were new. In some cases, it appears that workers did not return to the First Aid station as requested by the EMTs.
- Some of the EMT logs, along with worker interviews, indicate that some or many workers are worried that they will be fired if they go to the First Aid station too much or at all.
- A number of workers appeared to have been terminated by Allen Harim within weeks to months after suffering an MSD. In several cases, the workers were terminated within days or the same day of the MSD occurrence. In some of these cases, there is a "no-rehire" comment in the medical records. Of the seven employees who referred themselves to the doctor, six were terminated and three of the six had "no-rehire" comments.
- The EMTs frequently use the term "alleged" when describing a worker's statement regarding a symptom or injury. This term and EMTs' comments in some of the records suggest a lack of respect or professionalism and a demeanor of skepticism when EMTs are caring for workers.
- Several records are of concern as they suggest that the goal of the visits were to prevent a recordable injury rather than to provide medical care to the worker.

These medical management concerns are important for several reasons. The purpose of a First Aid station is to provide first aid care for acute injuries, which can be done with the appropriate supplies and trained personnel (OSHA 2006). Allen Harim Foods, LLC has chosen to expand the purpose of their First Aid station to include evaluation and treatment of MSDs. In the Allen Harim Foods, LLC Medical Department Directives-Policies and Procedures, the section on musculoskeletal disorders states that "early identification, evaluation, and treatment of signs and symptoms of musculoskeletal disorders in combination with an aggressive safety program to properly train workers and provide administrative controls and engineering changes [can] effectively reduce work-related cumulative trauma problems for workers". This is a laudable goal. However, the EMT logs and worker interviews provide a different picture. In general, workers who present with signs and symptoms of MSDs are not referred to physicians for

evaluation and treatment. Workers are, in fact, discouraged from reporting symptoms and injuries. By discouraging workers from seeking care and avoiding referral to higher level care, workers go back to the jobs that are causing their injuries. The injured body parts are not allowed to heal, which may lead to worse injuries. In addition, there is no indication of an aggressive program to make ergonomic changes to reduce workers' symptoms and injuries. Rather, the first aid station appears to be used to prevent injuries from appearing on the OSHA 300 logs. Thus, the medical management practices noted above lead to increased MSDs, lack of intervention to eliminate or reduce ergonomic hazards, and recordkeeping violations.

Despite Allen Harim's Foods, LLC policy to treat each employee with respect, as noted in the Medical Directives, workers are treated with distrust rather than respect. Symptoms are doubted. A number of Allen Harim Foods, LLC workers do not speak English but speak other languages, such as Spanish and Creole. The EMTs stated that they do not speak these languages and employ coworkers to translate for them. This practice creates a breach of confidentiality when discussing a worker's personal medical problems. It may also cause some workers to not report symptoms or injuries. Healthcare providers now regularly use confidential translation services to resolve this issue. The National Association of Emergency Medical Services' Code of Ethics (2013) notes that EMTs should "provide services based on human need, with compassion and respect for human dignity, unrestricted by consideration of nationality, race, creed, color, or status; to not judge the merits of the patient's request for service, nor allow the patient's socioeconomic status to influence our demeanor or the care that we provide". Based on the information OSHA has received, both Allen Harim Foods, LLC Management and their EMTs should consider changes that would align the employee/EMT relationship with the EMS code.

Recommendations

In the interest of employee health, I recommend that you voluntarily take the necessary steps to improve medical management practices at the Harbeson, Delaware facility and corporate wide as appropriate. We recommend you consider the following regarding Allen Harim's Foods, LLC medical management program:

1. If Allen Harim Foods, LLC plans to continue to provide on-site medical services, the company should contract with a Board Certified Occupational Medicine physician (such as Dr. Green) to re-evaluate the medical program and provide on-going oversight. An occupational medicine physician should provide education and supervision of the in-plant medical staff, regularly review medical logs, update the medical directives, review trends in symptoms and MSDs, and be involved in the ergonomics program.

2. Allen Harim Foods, LLC should make sure that all on-site medical personnel are legally licensed and practicing within their scope.

3. On-site medical personnel should be trained in ergonomic risk factors and musculoskeletal symptoms and disorders due to ergonomic hazards.

4. Allen Harim Foods, LLC workers with musculoskeletal symptoms and injuries should be referred early to a physician for definitive evaluation, diagnosis and treatment. In cases where the EMT determines that a worker does not need immediate physician evaluation, the worker should be evaluated by a physician within a few days, particularly if symptoms continue, worsen, recur and/or positive examination findings are present.

5. Allen Harim Foods, LLC should regularly monitor worker complaints, symptoms, injuries and illnesses and analyze trends. This information should be used to assess the medical management program, target ergonomic interventions, develop worker education, and decrease worker injuries and illnesses.

6. Allen Harim Foods, LLC should review and revise their policies and procedures to eliminate policies that discourage workers from reporting work-related symptoms, injuries and illnesses. The program that gives bonuses to workers who work at high ergonomic risk jobs without rotation should be eliminated.

7. Allen Harim Foods, LLC should take steps to improve the working environment so that workers feel respected, listened to and are not afraid to report symptoms and other concerns. Steps may include training for the in-plant medical personnel and supervisors, and using a confidential translation service for non-English-speaking workers when they are discussing symptoms and other health information with the medical personnel who do not speak their language.

These methods are not meant to be the only ones available or feasible. OSHA welcomes and requests a report of any of your efforts to reduce the above-mentioned exposures and the results of your efforts.

Sincerely,

Erin G. Patterson
Area Director

REFERENCES:

Delaware State Fire Prevention Commission; Accessed 7/30/15 at: http://www.statefirecommission.delaware.gov/

Delaware State Fire School; Accessed 7/31/15 at: http://statefireschool.delaware.gov/ and Delaware State Fire Prevention EMT Course: http://www.statefirecommission.delaware.gov/pdfs/emsambulance/EMT-Course122012.pdf

National Association of Emergency Medical Technicians (NAEMT). Code of Ethics for EMS Practitioners, June 14, 2013. Accessed 7/30/15 at: http://www.naemt.org/about_us/emtoath.aspx

OSHA's Medical Services and First Aid Standard (29 CFR 1910.151). Accessed 7/30/15 at: http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9806

OSHA 2006. Best Practices Guide: Fundamentals of a Workplace First-Aid Program. Occupational Safety and Health Administration, US Department of Labor. Accessed 7/30/15 at: http://www.osha.gov/Publications/OSHA3317first-aid.pdf