

The Appraisal study of NADA and WADA in relation to Therapeutic Use Exemptions (TUE)

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Abstract

Athletes, like all people, may have illnesses or conditions that require them to take a particular medication or undergo certain procedures or methods. For athletes, the substance/ method may appear on World Anti-Doping Agency (WADA)'s List of Prohibited Substances and Methods in 2004 to the escalating challenge of drug misuse in contemporary sport. In such instances, they may be granted a TUE, which gives them permission to take a substance or use a method. The mechanisms of the TUE process are carefully defined and described in a specific WADA "international standard" (IS). As a consequence, anti-doping organizations (ADOs) were empowered to establish "Therapeutic Use Exemption Committees" (TUECs) whose membership and responsibilities were clearly delineated in the IS, and to whom an athlete and treating physician(s) could make appropriate application for a TUE. TUE approval protects athletes from receiving a sanction if a prohibited substance is found in their sample. In 2017-18 annual report of NADA, 97 proceedings were initiated on the grounds of possible anti-doping violations. 64 cases originated in a positive finding and the presence of a prohibited substance (Art. 2.1 NADC): 56 of these findings result from in-competition tests (44 federations/12 NADA) and eight originated in out-of-competition controls organized by NADA. 21 of the 64 proceedings were closed because of a valid therapeutic use exemption (TUE) or a medical certificate. During the result management process, it turned out in four cases that there was no anti-doping rule violation due to the presence of allowed inhalation of corticosteroid asthma sprays. Nine cases were forwarded to the international federation or WADA as there was no jurisdiction of NADA. When checking NADA's in-house data collection in the Medical Department, it was found that it contained more data records on applicants than therapeutic use exemptions (TUEs) had been granted. This is due to TUE applications that are no longer required by the new regulation.

Keywords: Anti Doping, Prohibited Substance, TUECS, ADO, IS.

Introduction

Therapeutic Use Exemptions maintained by World Anti-Doping Agency and maintained by local governing body. The WADA provides Code for TUE is a mandatory International Standard developed as part of the World Anti-Doping Program. The International Standard for Therapeutic Use Exemptions was first adopted in 2004 and came into effect 1 January 2005. Further revisions were made

in 2009, 2010, 2011 and 2015. The enclosed ISTUE incorporates revisions approved by the WADA Executive Committee on 18 November 2015. It come into effect on 1 January 2016. The official text of the International Standard for TUE published in English and French.

The WADA purpose of the TUE are:

(a) The conditions that must be satisfied in order for a TUE to be granted, permitting the presence of

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a Prohibited Substance in an Athlete’s Sample or Use/ Attempted Use, Possession/Administration or Attempted Administration of a Prohibited Substance/ Prohibited Method for therapeutic reasons.

(b) The responsibilities imposed on ADO in making and communicating TUE decisions.

(c) The process for an Athlete to apply for a TUE.

(d) The process for an Athlete to get a TUE granted by one ADO recognized by another ADO.

(e) The process for WADA to review TUE decisions. and

(f) The strict confidentiality provisions

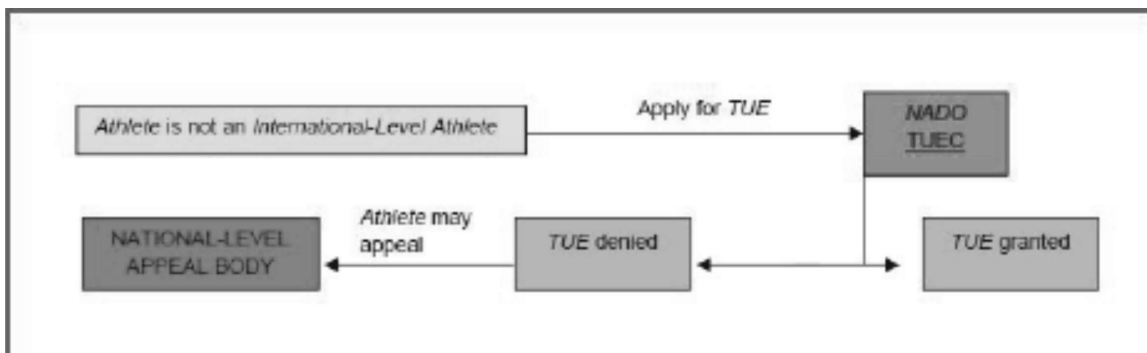
TUE Provisions

The code of provision of TUE mentioned Article 4.4 (4.4.1 to 4.4.9), has 9 code. WADA divide code as according to national, International, MEO (Major Event Organization) level athlete’s.

Ø National-Level athletes

The athletes participating in National Events shall obtain a TUE from NADA, unless they have previously received a TUE from an IF and such TUE is still valid and its granting has been reported to the NADA.

FLOW-CHART 1.0



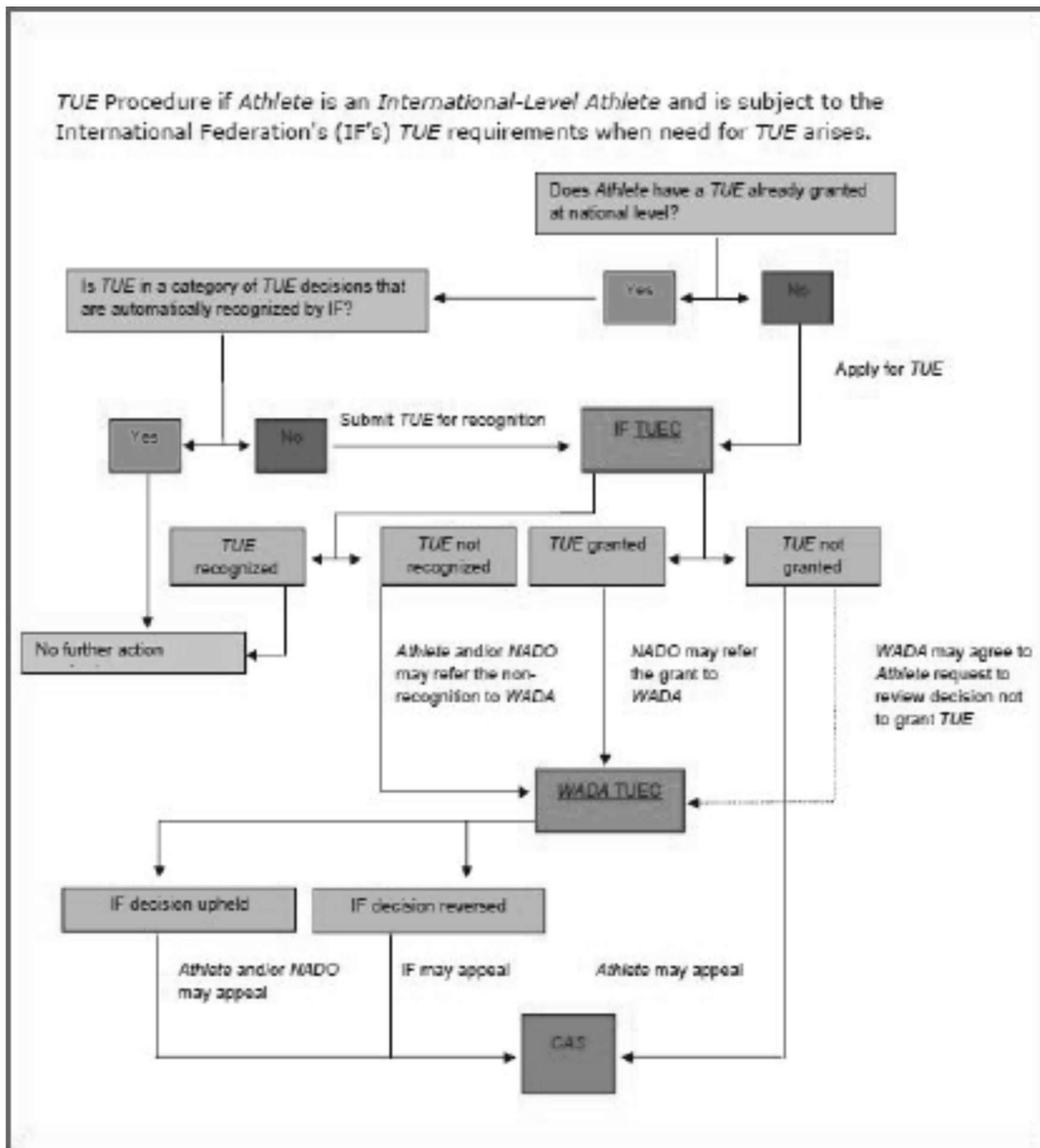
See:- https://www.wada-ama.org/sites/default/files/resources/files/wada-2016-istue-final-en_0.pdf

Ø International-Level Athletes

Athletes included by an IF in its Registered Testing Pool and other athletes prior to their participation in any International Event must obtain a TUE from their relevant. An IF can recognize a TUE delivered by NADA under its own authority. But if an Athletes who already have a TUE at the national level but are participating in an International Event

and do not already have a TUE registered with their IF must request a TUE from the IF not later than 30 days before the athlete’s participation at an International Event. Athletes may be required by a MEO to apply for a TUE if the Athlete wants to Use a Prohibited Substance or Method in connection with the Event.

FLOW-CHART 2.0



See:- https://www.wada-ama.org/sites/default/files/resources/files/wada-2016-istue-final-en_0.pdf

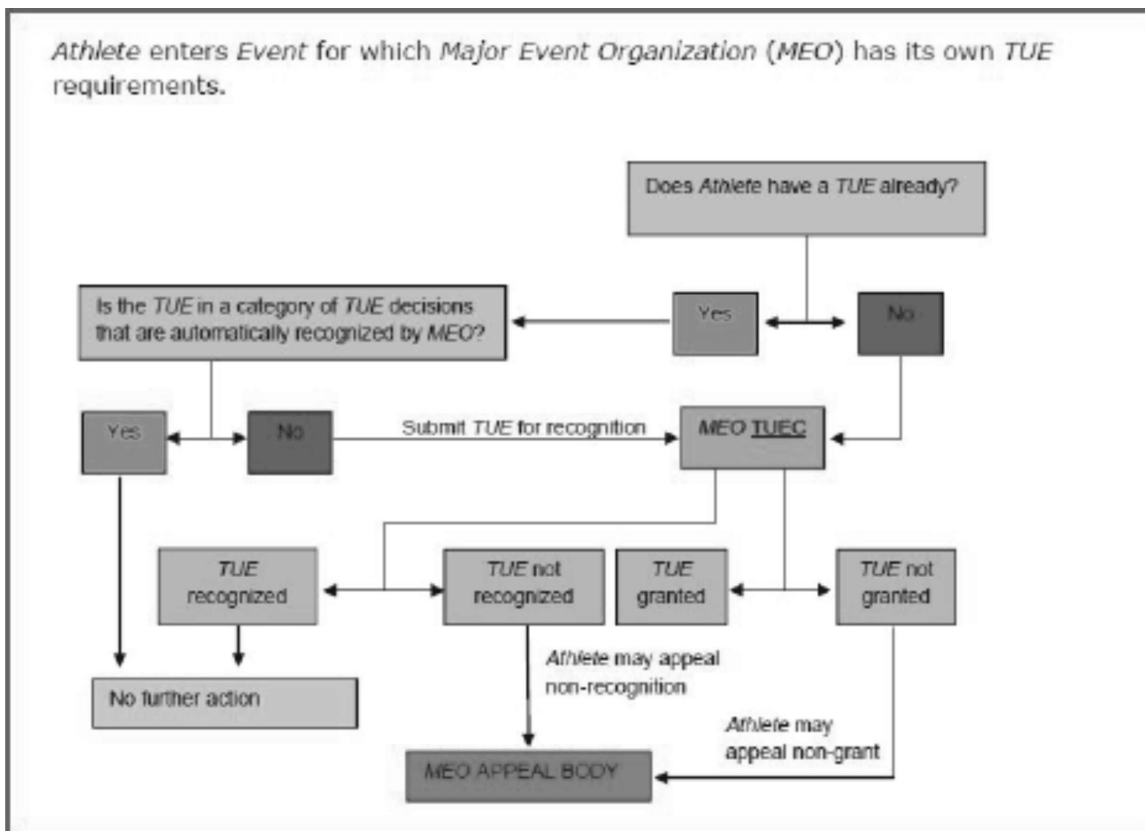
Ø Major Event Organizers

A Major Event Organization may require Athletes to apply to it for a TUE if they wish to Use a Prohibited Substance or a Prohibited Method in connection with the Event. In that case:

The MEO ensures a process is available for an athlete to apply for a TUE if:

- Athlete doesn't already have any.
- If the TUE is granted, it is effective for its event only.
- A decision by a MEOs not to grant a TUE may be appealed by the Athlete exclusively to an independent body appointed by the MEO for that purpose.

FLOW-CHART 3.0



See: https://www.wada-ama.org/sites/default/files/resources/files/wada-2016-istue-final-en_0.pdf

Time Frame for TUE submission

A TUE for any Substances and Methods that are prohibited In-competition, has to be submitted by the athlete no less than 30 days before participating in an Event. In order to make sure that the Athlete has the TUE before participating in a competition all Athletes are strongly advised to send in their applications at least 30 days before participating in an event as the TUECs have 21 days to render their decision.

For substances, which are prohibited In-Competition as well as out-of-competition, the TUE application has to be submitted as soon as the medical condition requiring the use of prohibited Substances or Methods has been diagnosed.

Retroactive TUEs

There are some situations when retroactive approval can be accepted. Even if a potential retroactive case is given consideration, this in no way guarantees that the TUE will be accepted. The evaluation procedure is the same as for a normal TUE request. The request will be considered by the relevant TUEC who will then render its decision.

Review of TUE Decisions by WADA

WADA in certain cases, must review TUE decisions of International Federations, and that it may review any other TUE decisions. Each request for review must be submitted to WADA in writing and must be copied to the party whose decision would be the subject of the review. Where the request is for review of a TUE decision that WADA is not obliged to review, WADA may nevertheless refer the decision back to the International Federation for clarification or for re-consideration by the International Federation. The WADA TUEC shall reverse any grant of a TUE that does not comply. Where the TUE reversed was a prospective TUE such reversal shall take effect upon the date specified by WADA shall communicate the reasoned decision of the WADA TUEC promptly to the Athlete and to his/her National Anti-Doping Organization and International Federation.

Conclusion

Therapeutic Use Exemption (TUE) Athletes may at times need to use a prohibited medication to treat a legitimate medical condition. A TUE is an exemption that allows an athlete to use, for therapeutic

purposes only, otherwise it will be prohibited substance or method. TUE approval may protect athletes from receiving a sanction if a prohibited substance is found in their sample. So TUE has a positive Impact on the various sports field. But must prefer the medical condition as according to International Standard for Therapeutic Use Exemptions (ISTUE) and TUE Physician Guidelines.

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