Medical Review Officer (MRO)

In my experience assisting the Medical Review Officer (MRO) I have found that several of our clients do not realize the amount of regulations that the MRO must follow before releasing a positive drug test result. If a drug test is negative the employer will receive the result usually within 24 to 48 hours after the MRO’s review. A positive test may take several days before the MRO releases it to the employer. The MRO may receive many calls from the employer looking for a result that may still be under his/her review and unfortunately, the MRO cannot release any information until the result has been completed and confirmed according to the FHWA regulations. I have put together some facts that I feel is of importance to help educate our clients as to what may be expected or what may be involved before the MRO may report a positive result.

Medical Review Officer

Part 40 Subpart G

The medical review officer's (MRO's) primary responsibility is to review and interpret positive drug test results obtained from the certified laboratory. The MRO must assess and determine whether alternate medical explanations could account for the positive test results. The MRO must be a licensed physician and possess a knowledge of drug abuse disorders. The MRO, who may be an employee of the motor carrier or one contracted to provide the services required, principally serves as an arbiter between the laboratory and the employer. The MRO must be qualified and trained according to §40.121.

The MRO serves a key role in the final determination of positive results conducted under the FHWA regulations. The MRO must examine the possible alternate medical explanations for any positive test results. To accomplish this task, the MRO may conduct medical interviews of the individual, review the individual's medical history and review any other relevant bio–medical factors. Additionally, the MRO must examine all medical records and data made available by the tested individual, such as evidence of prescribed medications. The MRO must not consider any specimen results that arise from collection or analysis which are not in accord with the FHWA regulations.

The MRO must give the individual testing positive an opportunity to discuss the test results prior to making a final decision. After the final decision is made, the MRO shall notify the employer as prescribed below.

If, during the course of an interview with an employee who has tested positive, the MRO learns of a medical condition which could, in the MRO's reasonable medical judgment, pose a risk to safety, the MRO may report that information to the Department of Transportation (DOT) or to the employer.

Testing of Split Sample – The MRO shall notify each employee who has a confirmed positive test that the employee has 72 hours in which to request a test of the split specimen. If the employee makes such a request, the MRO shall direct, in writing, the laboratory to provide the split specimen to another certified laboratory for analysis. If the
analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing, or untestable, the MRO shall cancel the test and report the cancellation and the reasons for it to the DOT, the employer, and the employee.

MRO Unable to Contact Employee — If an MRO, after making and documenting all reasonable efforts is unable to contact a tested person, the MRO shall contact a designated management official of the motor carrier to arrange for the individual to contact the MRO prior to going on duty. The MRO may verify a positive test without having communicated with the driver about the results of the test if:

1. The driver expressly declines the opportunity to discuss the results of the test, or
2. Within 5 days after a documented contact by a designated management official of the motor carrier instructing the driver to contact the MRO, the driver has not done so.

Communicating Results to Employer — §382.407 requires the MRO to report to the employer using any communications device, but in all instances a signed, written notification must be forwarded within three business days of completion of the review.

The MRO must report the following information to the employer:

1. That the controlled substances test being reported was in accordance with Part 40 of this title and this part;
2. The name of the individual for whom the test results are being reported;
3. The type of test indicated on the custody and control form (i.e. random, post-accident, etc.);
4. The date and location of the test collection;
5. The identities of the persons or entities performing the collection, analysis of the specimens and serving as the medical review officer for the specific test;
6. The verified results of a controlled substances test, either positive or negative, and if positive, the identity of the controlled substance(s) for which the test was verified positive.

All positive tests reported to the motor carrier by the MRO, in which the MRO did not discuss the results with the driver, shall be so noted and be accompanied by complete documentation of the MRO's efforts to contact the driver. The documentation must include contacts made with a motor carrier's designated management official.

If you have any questions regarding the process of a positive drug screen and the MRO review please do not hesitate to call.
Rebecca Ekorn
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