DRUG & ALCOHOL CLEARINGHOUSE

Q&A Session for Medical Review Officers and Substance Abuse Professionals

December 2020
<table>
<thead>
<tr>
<th>Agenda Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>OVERVIEW OF THE CLEARINGHOUSE</td>
<td>About the Congressional mandate and what it means</td>
</tr>
<tr>
<td>REGISTRATION</td>
<td>Creating a Clearinghouse account</td>
</tr>
<tr>
<td>REPORTING VIOLATIONS</td>
<td>Violations reported to the Clearinghouse</td>
</tr>
<tr>
<td>REPORTING RETURN-TO-DUTY INFORMATION</td>
<td>Return-to-duty (RTD) information reported to the Clearinghouse</td>
</tr>
<tr>
<td>COMMON ISSUES</td>
<td>Common issues users are experiencing</td>
</tr>
<tr>
<td>NEXT STEPS &amp; MORE INFORMATION</td>
<td>How you can register, learn more, and get technical support</td>
</tr>
</tbody>
</table>
Overview of the Clearinghouse
The Clearinghouse Final Rule

- Mandated by Congress (MAP-21, Section 32402)
- Published December 5, 2016
- Established requirements for the Clearinghouse
- Implemented on January 6, 2020

Read the Clearinghouse final rule at:
The FMCSA Commercial Driver’s License Drug and Alcohol Clearinghouse

**Record**
Employers and medical review officers report violation information to the Clearinghouse (positive tests, refusals to test, actual knowledge)

**Retain**
Secure database retains the violation and CDL/CLP number
Includes driver’s status in return-to-duty (RTD) process

**Query**
Employers and C/TPAs query the Clearinghouse for violation information, with driver consent
FMCSA uses data for enforcement purposes
State enforcement agencies will receive driver eligibility status (i.e., Prohibited/Not Prohibited)
Drivers can access only their own information
Increasing safety on our Nation’s roadways

- Real-time access to reported violation information for select registered users
- Easier for employers to meet pre-employment investigation and reporting obligations
- More difficult for drivers to conceal drug and alcohol violations from employers
- More insight into employer compliance with drug and alcohol testing rules

Safer Roadways
MRO and SAP Requirements

**MRO**
- **Register**
  - Self-certify you meet all MRO qualifications per §40.121

**SAP**
- **Register**
  - Self-certify you meet all SAP qualifications per §40.281
  - Driver must designate you in the Clearinghouse

**Report**
- **MRO**
  - Positive, adulterated, substituted drug tests or test refusals

- **SAP**
  - Enter RTD information: date of initial SAP assessment, and date driver determined eligible for RTD testing
Registration
Registering for the Clearinghouse

- Must have a login.gov account to register for the Clearinghouse
  - When selecting a method for second factor authentication do not select “backup codes”
- After you have logged in to your login.gov account, select your user role
Registering for the Clearinghouse – MROs and SAPs

- MROs: Enter your MRO license information and self-certify you meet all MRO qualifications, per § 40.121

- SAPs: Enter your SAP credential information and self-certify you meet all SAP qualifications, per § 40.281
Inviting Other Users

- Invite Assistant(s)
  - Ensure continuous access
  - Employers: not required for Portal users

- Additional Administrators register on the Clearinghouse website
Reporting Violations in the Clearinghouse
# Reporting Violations – Employers and C/TPAs

## What violations are the employer or designated C/TPA required to report?

<table>
<thead>
<tr>
<th>INFORMATION TO BE REPORTED TO CLEARINGHOUSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>An alcohol confirmation test with a concentration of 0.04% or higher</td>
</tr>
<tr>
<td>Refusal to test (alcohol) as specified in 49 CFR 40.261</td>
</tr>
<tr>
<td>Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191</td>
</tr>
<tr>
<td>Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance</td>
</tr>
<tr>
<td>Negative RTD test results (drug and alcohol testing, as applicable)</td>
</tr>
<tr>
<td>Completion of follow-up testing</td>
</tr>
</tbody>
</table>
## Reporting Violations – MROs and SAPs

### What information is the MRO or SAP required to report?

<table>
<thead>
<tr>
<th>INFORMATION TO BE REPORTED TO CLEARINGHOUSE</th>
<th>DEADLINE FOR REPORTING INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MRO</strong></td>
<td></td>
</tr>
<tr>
<td>Verified positive, adulterated, or substituted drug test result</td>
<td>Within two business days of making a determination or verification of a DOT-approved drug test</td>
</tr>
<tr>
<td>Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191</td>
<td></td>
</tr>
<tr>
<td>Changes a verified drug test per 49 CFR Part 40</td>
<td>Within one business day of making any change in the reported results</td>
</tr>
<tr>
<td><strong>SAP</strong></td>
<td></td>
</tr>
<tr>
<td>Identification of driver and date the initial assessment was initiated</td>
<td>By the close of the business day following the date of initial assessment</td>
</tr>
<tr>
<td>Date of determination of eligibility for RTD testing</td>
<td>By the close of the business day following the determination that the driver completed the RTD process</td>
</tr>
</tbody>
</table>
How to Report a Violation – MROs

- **Driver Information**
  - Driver's name, date of birth, and CDL number and state/country of issuance
    - **IMPORTANT**: Driver social security number (SSN) cannot be entered in the Clearinghouse
    - Spaces and hyphens should be removed from the CDL number before entering
  - Information will be verified against FMCSA systems
    - MRO will have two attempts to enter the driver’s information correctly
    - If the information cannot be validated, it will be flagged for review by FMCSA (data will still be accepted)
How to Report a Violation – MROs: Positive drug test

- Violation Information
  - Reason for the test, date of test, date of verified result, Specimen ID number, and test result

[Diagram of violation information form with options for drug metabolites and fields for entry of information]
CDL Information

What happens if the CDL information is not listed on the CCF?

- CDL number **must** be used instead of the SSN or EIN when FMCSA-covered drivers’ positive drug or alcohol test results are reported to the Clearinghouse.
- CCF must annotate the driver’s CDL number and state of issuance in **Step 1, Section C** of the CCF for each FMCSA-regulated test.
- Driver’s CDL number and state of issuance must also be noted on the Alcohol Testing Form (ATF).
- If the employer or C/TPA does not provide the CDL and the state of issuance, the collector should ask the driver for this information at the collection site.

What does this mean for laboratories?

Laboratories should process the urine specimen without delay and send the results to the MRO.

What does this mean for the MRO?

- The MRO should contact the driver, driver’s employer, or designated employer representative to obtain the information.
- After receiving the CDL information, the MRO will report the verified positive test result in the Clearinghouse.
ODAPC List Serve

- SAPs and MROs must subscribe to receive updates from the DOT Office of Drug and Alcohol Policy and Compliance (ODAPC)
  - August 2019 bulletin on collecting driver CDL information: https://content.govdelivery.com/accounts/USDOT/bulletins/2574951
  - August 2020 bulletin on revised CCF, to include CDL information: https://www.samhsa.gov/workplace/drug-testing
    - Download new CCF: https://www.samhsa.gov/workplace/drug-testing

Get ODAPC Updates by Email

Subscribe at: https://www.transportation.gov/odapc/get-odapc-email-updates
How to Report a Violation – MROs: Refusal to take a drug test

- Select the reason for the test
  - Pre-employment
  - Random
  - Post-accident
  - Return-to-duty
  - Follow-up
  - Reasonable suspicion
- Indicate the type of test refusal
- Provide the date of test and Specimen ID number
- Enter additional information, if prompted
  - Date of verified result (adulterated/substituted specimen)
  - Remarks/additional information (adulterated/substituted specimen, other)
Frequently Asked Questions

- **Will I report violations that occurred prior to January 6, 2020 to the Clearinghouse?**
  - No, only violations that occur on January 6, 2020 or later.

- **How long is the violation information retained in the Clearinghouse?**
  - 5 years or until the follow-up testing plan is successfully completed, whichever is later.

- **Can an MRO or employer report a drug and alcohol program violation if the driver is not registered for the Clearinghouse?**
  - Yes. The Clearinghouse will associate the violation with a driver’s CDL information. This will be recorded even if the driver has not registered for the Clearinghouse.
Frequently Asked Questions

- **What information may be challenged by the driver?**
  - The accuracy of the information reported
  - Report of employer’s actual knowledge the driver received a traffic citation for driving a CMV while under the influence of drugs or alcohol if it did not result in a conviction
  - Accuracy of test results and refusals may not be challenged

- **How does a driver change or remove inaccurate data?**
  - The driver may submit a petition via FMCSA’s DataQs system
  - FMCSA will review petition and notify driver of decision to remove, retain, or correct information in the Clearinghouse and the reason for decision
  - If the driver believes a petition decision was made in error, he/she may submit a request for an Administrative Review
    - Request must include an explanation why he/she believes FMCSA made an error in their decision
    - Driver informed of decision
    - Decision will constitute as the final Agency action
Reporting RTD Information in the Clearinghouse
What RTD information do SAPs need to report in the Clearinghouse?

- **Driver information**
  - Driver's name, date of birth, and commercial driver’s license (CDL) number and state/country of issuance

- **Date the driver's initial SAP assessment is completed**
  - Must report in the Clearinghouse by the close of the business day following the initial assessment

- **Date the SAP determines the driver is eligible for RTD testing**
  - Must report by the close of the business day following a determination that the driver completed the RTD process
Recording RTD Data – SAPs

**Driver Information**
- Locate the appropriate driver in your driver list
  - **Note:** The driver must first designate you as his or her SAP
- Click the button to enter the appropriate date

**Date of initial assessment**

**Date of determination of eligibility for RTD testing**

SAPs may not order the RTD test or report the RTD test to the Clearinghouse
Frequently Asked Questions

- **The return-to-duty (RTD) process has not changed**
  - Driver must designate a DOT-qualified SAP after a positive or refusal
  - Date the driver’s initial SAP assessment is completed
    - Note: Employer must provide the driver with a list of potential SAPs
  - Designated SAP will enter information about the driver’s treatment into the Clearinghouse
  - Driver will need to take a negative RTD test, test results are recorded in the Clearinghouse by the employer or designated C/TPA

- **Will a driver’s follow-up testing plan be available in the Clearinghouse?**
  - No, follow-up testing plans will not be included in a driver’s Clearinghouse record.
  - When a prospective employee has not completed a follow-up testing plan prescribed by the SAP, the subsequent new employer must obtain the follow-up testing plan from the previous employer, as required in § 382.413, and report the date the follow-up testing plan was completed.
Common Issues
Common Issues – login.gov

- Change email address and authentication method
  - Log in to https://secure.login.gov/.
  - Scroll to add or edit “Two-Factor Authentication.”
  - Click on “Add email”. Then, click on “Delete” next to the email address you are replacing.
Next Steps

Register
For information to get started, visit
https://clearinghouse.fmcsa.dot.gov/Register

For more information:

➢ Visit the Clearinghouse Learning Center at  https://clearinghouse.fmcsa.dot.gov/Learn
  for resources and answers to common questions

Contact us:

➢ Email clearinghouse@dot.gov
➢ Call 844-955-0207