

Subpart G - Medical Review Officers and the Verification Process

§ 40.159 What does the MRO do when a drug test result is invalid?

(a) As the MRO, when the laboratory reports that the test result is an invalid result, you must do the following:

- (1) Discuss the laboratory results with a certifying scientist to obtain more specific information.
 - (2) Contact the employee and inform the employee that the specimen was invalid or contained an unexplained interfering substance. In contacting the employee, use the procedures set forth in §40.131.
 - (3) After explaining the limits of disclosure (see §§40.135(d) and 40.327), you should inquire as to medications the employee may have taken that may interfere with some immunoassay tests.
 - (4) If the employee gives an explanation that is acceptable, you must:
 - (i) Place a check mark in the “Test Cancelled” box (Step 6) on Copy 2 of the CCF and enter “Invalid Result” and “direct observation collection not required” on the “Remarks” line.
 - (ii) Report to the DER that the test is cancelled, the reason for cancellation, and that no further action is required unless a negative test result is required (i.e., pre-employment, return-to-duty, or follow-up tests).
 - (5) If the employee is unable to provide an explanation and/or a valid prescription for a medication that interfered with the immunoassay test but denies having adulterated the specimen, you must:
 - (i) Place a check mark in the “Test Cancelled” box (Step 6) on Copy 2 of the CCF and enter “Invalid Result” and “direct observation collection required” on the “Remarks” line.
 - (ii) Report to the DER that the test is cancelled, the reason for cancellation, and that a second collection must take place immediately under direct observation.
 - (iii) Instruct the employer to ensure that the employee has the minimum possible advance notice that he or she must go to the collection site.
- (b) You may only report an invalid test result when you are in possession of a legible copy of Copy 1 of the CCF. In addition, you must have Copy 2 of the CCF, a legible copy of it, or any other copy of the CCF containing the employee's signature.
- (c) If the employee admits to having adulterated or substituted the specimen, you must, on the same day, write and sign your own statement of what the employee told you. You must then report a refusal to test in accordance with §40.163 .