

What happens when a driver tests positive?

When a driver has a confirmed positive, or engages in other prohibited drug or alcohol behavior, the driver must be removed from a safety-sensitive function per §382.501. The employer must present the driver with a list of Substance Abuse Professionals (SAPs) per §40.287. The list must be given without a fee, and the carrier cannot force an employee to seek the evaluation. The list, also, must be made available to the driver (or driver applicant) whether or not the carrier retains the driver in their employ. (Retention of the driver would be based on company policy.)

In order to resume a safety-sensitive function, the driver must complete the Return-to-Duty Process of Subpart O of Part 40. The driver cannot perform a safety-sensitive function again until all the necessary steps are completed:

1. The driver must seek a face-to-face evaluation from a SAP. (Payment of the evaluation is based on management-labor agreements and healthcare benefits and is not required of the employer under the FMCSRs.)
2. The SAP will refer the driver to an appropriate treatment and education program.
3. The driver must complete the required treatment and education and return to the SAP for another face-to-face evaluation.
4. If the SAP is satisfied that the driver is able to return to driving, he/she will issue a report on his/her findings to the Designated Employer Representative.
5. This report will list any continuing treatment and education, if required, and the number of DOT follow-up drug and/or alcohol tests required in a given time frame. The driver will be required to have a minimum of six unannounced follow-up tests in the first 12 months following the employee's return to a safety-sensitive function. The SAP may require follow-up testing for up to five years.
6. The driver now can go, and not prior to this point, for a return-to-duty drug and/or alcohol test. The employer must wait for the go ahead from the SAP before sending the driver in for the return-to-duty test. A negative result must be received before the driver can return to a safety-sensitive function.

After the driver returns to a safety-sensitive function, the employer must send the driver for the required number of unannounced follow-ups making sure that they do not have any discernible pattern.

All records relating to a DOT-drug and alcohol violation must be retained for five years per §382.401. If the driver leaves the motor carrier's employment prior to the completion of the very last follow-up test, this information must be supplied to the prospective employer per §40.25, and the next employer(s) must pick up where the process left off.