

For many employers it can be a stressful and confusing time when an employee tests positive on a DOT drug test or alcohol test. Does the employer now have to “DO” anything? Must the employee be fired? How long will the driver be out? Can the driver be re-hired? The key is to precisely follow the DOT regulations in order to handle the situation correctly and maintain regulatory compliance.

Once an employer has received a verified positive drug test result, the employer must immediately remove the employee from DOT safety sensitive duties. The employer should not wait for a written report from the Medical Review Officer or the results of a split specimen test (if one has been requested by the employee). A verified positive DOT drug test is a direct violation of the federal drug and alcohol testing regulations.

Employers who are required to comply with DOT regulations must provide an individual who failed a DOT drug test at pre-employment (including an applicant or new employee), random, reasonable suspicion or post-accident test with information about qualified DOT Substance Abuse Professionals (SAPs). Employers are not required to pay for the employee’s evaluation or treatment; however, they must provide a list of locally available qualified DOT SAPs, including name, address, and phone number. Employers may provide the list of DOT SAP referrals through a Third-Party Administrator (TPA) or other service agents such as American Substance Abuse Professionals.

For an employee to be eligible to perform safety sensitive duties, the employee in violation must successfully complete the [DOT Return to Duty Process](#) (RTD). This process involves being evaluated by a qualified DOT SAP, completing treatment and/or education as recommended by the SAP, and a follow-up evaluation by the SAP. The time it takes to complete the DOT SAP process varies and depends upon the level of treatment and education recommended for the employee, as well as the employee’s dedication to the process. The SAP is not an advocate for the employee or the employer. Rather the SAPs function is to protect the public’s interest in safety.

It is important to note that only a qualified DOT SAP may provide the required evaluation, recommendations and determination of successful compliance required to become eligible for consideration for return to duty by an employer. To act as a qualified DOT SAP, the SAP is required by federal regulations to have specialized training, maintain specific professional credentials and undergo continuing education. They are also required to adhere to specific rules and regulations regarding facilities in which they recommend for treatment and education.

Once the employer has been notified by the qualified DOT SAP in writing that an employee has successfully completed the recommendations, the employer may choose to return the employee to safety sensitive duty pending a negative observed return to duty test. The employer must also ensure that the employee is in follow-up testing as recommended by the SAP. In addition, the employer must also ensure the date of the RTD DOT drug test is entered into the FMCSA Clearinghouse along with the first date for the follow-up testing schedule and the last date once the process is successfully completed.

Apple Valley Counseling Services, LLC has the qualified Substance Abuse Professional that can take care of all the needs under 49 CFR Part 40 regarding DOT positive/refusal tests. William Ellis has been a qualified Substance Abuse Professional (SAP) since 2002.

He has had the knowledge and experience in the diagnosis and treatment of substance abuse-related disorders, since 1991. William Ellis has the compassion and desire to assist the employer and the employee through the SAP process.

We look forward in assisting one through the process, if you need of a qualified SAP. William Ellis usually can meet with an individual within 48 hours of the initial call.

CDL process:

If the person has a CDL, and has failed a DOT drug/alcohol test or has had a refusal to test as of January 6, 2020, then the driver will need to register in the Department of Transportation Clearinghouse <https://clearinghouse.fmcsa.dot.gov/register> and follow the prompts. Once the driver has registered it will show a message that you have a violation or you have no violation. When the driver finds the violation, then the instruction will say you must choose an SAP.

By typing in Apple Valley Counseling Services, LLC or William Ellis will bring the SAP up and then the driver will need to click that name. That action will send William Ellis a message saying you have an SAP request. Once Mr. Ellis sees the message, he will accept it and then that is all the driver needs to do in the clearinghouse.