

June 11, 1993

This is response to your correspondence dated February 16, 1993, requesting guidance on an issue involving the Medical Review Officer's (MRO) responsibility in notifying an employee concerning a laboratory positive test prior to reporting the result to the employer. Your question centers on why an MRO should have to contact an employee to discuss the result when the test is positive for marijuana or PCP since the positive test could not have resulted from legally prescribed medications.

Section 40.33(b)(3) indicates *"The role of the MRO is to review and interpret confirmed positive test results obtained through the employer's testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action may include conducting a medical interview and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication."* Section 40.33(c)(1) further stipulates the MRO, *"Prior to making a final decision to verify a positive test for an individual, the MRO shall give the individual an opportunity to discuss the test result with him/her"* before being reported to the employer for action.

The part 199 and part 40 regulations clearly outline the procedures that must be followed by an MRO in determining whether a confirmed positive test result shall be reported to the employer as a negative or positive. These delicate checks and balances must remain intact to ensure that an individual is not wrongfully accused or subjected to disciplinary action without an opportunity to discuss the test results. Therefore, an MRO shall provide an opportunity for an individual, who has tested positive, to discuss the test result with him/her prior to reporting the result to the individual's employer.

Thank you for your inquiry. Please let me know if you need any more information about our drug testing requirements.

Sincerely,

Richard L. Rippert
Drug Compliance Coordinator
Office of Pipeline Safety
Compliance