

DHHS ISSUES REVISIONS TO MANDATORY GUIDELINES FOR FEDERAL WORKPLACE DRUG TESTING PROGRAMS

EFFECTIVE DATE: MAY 1, 2010

On November 25, 2008, the US Department of Health and Human Services (DHHS) issued revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs that take effect in 18 months. These revisions were published in response to proposed changes to the Guidelines issued in 2004. Most significant is what these final revisions DO NOT include; that is, any authorization to use hair, oral fluid, or sweat specimens, or point of collection testing (POCT) devices for drug testing in federally-mandated programs. Thus, only laboratory urine drug testing can be used for all programs governed by the HHS Guidelines. While the DHHS Guidelines apply directly only to the drug testing of federal employees in the executive branch agencies of the Federal government, they also serve as the basis for DOT-mandated testing and are adopted by reference in many state statutes governing workplace testing conducted by employers. In the preamble to the published revisions, DHHS states that more study, research and public comment are needed before any final decisions can be made on the use of additional specimens and testing methodologies in the Federal program.

The revisions do include the following significant changes to the DHHS Guidelines:

- Lowering of the cut-off levels for cocaine and amphetamine testing. The new levels will be: cocaine 150ng/mL screening; 100 ng/mL confirmation and amphetamines 500ng/mL screening and 250ng/mL confirmation for methamphetamine and amphetamine.
- Adding testing for Ecstasy (MDMA). Screening cut-off for MDMA is set at 500 ng/mL, with confirmation for MDMA, MDA, and MDEA at 250 ng/mL.
- Provisions for DHHS certification of Instrumented Initial Testing Facilities (IITF). These testing facilities would be authorized only for initial screening; any confirmation testing required would be done at a DHHS certified drug testing laboratory.
- All Federal agency collections are to be split specimen collections. The revised guidelines related to urine specimen procedures essentially make them identical to what is required under DOT regulations.

So, what does it all mean? For drug testing conducted under DOT agency (and USCG) authority the DHHS revisions have no direct impact, other than the lower cut-off levels for amphetamines and cocaine which will take effect in May 2010. Additionally, at that time amphetamines testing will include screening for MDMA and confirmation for MDMA, MDA, and MDEA.

For those clients who have testing programs that are governed by the DHHS Guidelines, either by applicable state law or regulation, bargaining agreements, or policy statement, the changes highlighted above will need to be incorporated into those programs effective May 1, 2010.