

MRO Process And FCRA Compliance

Requests for a candidate's drug screening status before a completed MRO review could create liability for employers under the FCRA

Medical Review Officers (MROs) are responsible for reviewing laboratory results generated by an employer's drug testing program and evaluating medical reasons for certain drug test results. In addition, the MRO also ensures that the entire process of drug testing from start to finish is done according to the best practice standards, thus ensuring the integrity of the process and the validity of the results.

The **MRO process** is a complex analysis which often requires additional time to ensure that the candidate receives sufficient time to secure relevant documentation where applicable, while also protecting the confidentiality of the drug testing information.

An MRO will often mark a candidate's status as "pending" while a candidate is being processed and assessed. A "pending" case does not mean that the candidate is "under review" or that the candidate received a non-negative test result. Rather, a "pending" status simply means that the candidate is still being processed, which could be for a number of reasons. For example, the **MRO review process** may be delayed because a candidate did not immediately begin the drug screening process. This would result in the candidate being marked as "pending." Additional scenarios where a candidate's status may be "pending" include:

- *Urine sample is not yet accessioned into the lab's system to commence testing*
- *Specimen has not yet begun testing, paperwork is pending corrective action such as an affidavit from collector*

- *Preparing for testing but has not yet started GC/MS testing*
- *Specimen has gone on for further testing or is in further testing¹*
- *Case is under review*

Employers are often frustrated with the length of the MRO process and request updates on whether a "pending" case is "under review" so the employer may move forward in the employment process. However, employers are well-advised to wait until the "pending" case is completed before requesting such updates to avoid liability under the **Fair Credit Reporting Act (FCRA)**.

Because drug screening results contain information that can affect a candidate's eligibility for employment, a notification that the "pending" case is "under review" may be considered potentially adverse information. Therefore, if the employer relies on the "under review" status to make a hiring decision, the employer would be required to comply with both pre-adverse and adverse action requirements under the **FCRA**.

Drug screening results should not be considered by an employer until the MRO notifies the employer that the candidate's review is complete. Even if a "pending" case is "under review," this does not necessarily mean that the candidate's results will be non-negative; the candidate may still receive a "Pass" from the MRO. However, such determination cannot be made until the MRO completes the entire review process.

Certiphi Screening will provide real-time information as it become available within **FCRA** reporting criteria. If you would like to learn more please contact your sales executive, account manager or our customer service team. ■

¹ As noted above, "further testing" does not mean there is an issue with the candidate's lab results.