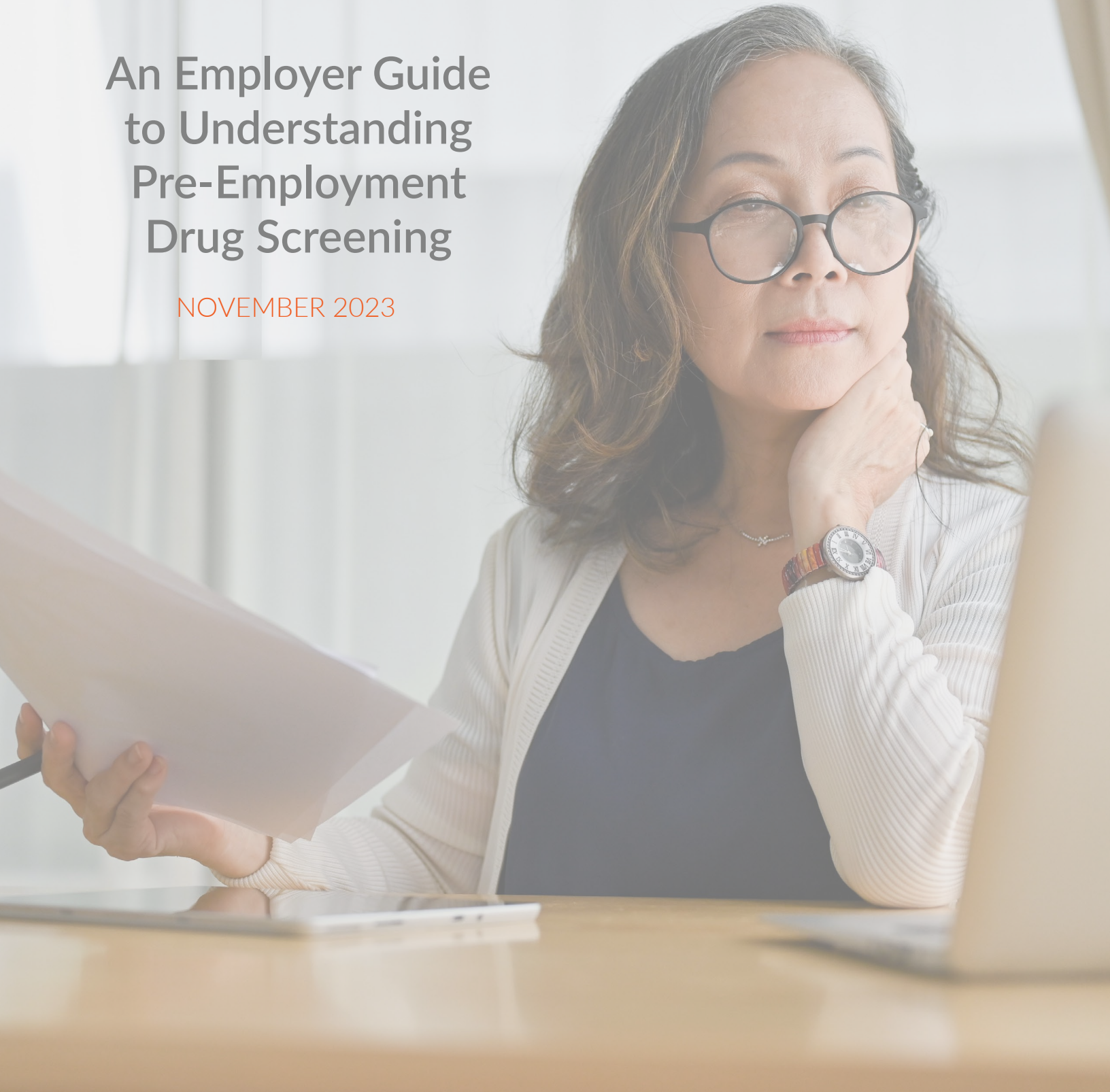


# An Employer Guide to Understanding Pre-Employment Drug Screening

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**DISCLAIMER:** The details outlined in this document are subject to change over time. Please review and confirm the most recent guidance.



# What is Pre-Employment Drug Screening?

Pre-employment drug screening is a crucial step in the hiring process.

## Introduction

Pre-employment drug screening helps employers assess a potential employee's use of illicit substances or abuse of prescription medication. By screening applicants for drug use, employers can help to protect their employees and ensure that their business runs smoothly.

## Why do employers conduct pre-employment drug screening?

There are many reasons why employers might choose to drug test potential employees. By requiring drug screening as part of the hiring process, employers can help protect themselves from potential liabilities.

For one, employers want to ensure that their employees are not using drugs, which can negatively impact job performance. The drug test aims to ensure that the applicant is not using drugs and can perform the job.

Additionally, drug use can lead to accidents or injuries on the job, which can be costly for employers and dangerous to employees.

Pre-employment drug screening can also help employers avoid legal culpability. Suppose an employee is injured on the job or causes an accident. In that case, the employer may be held liable if it is found that the employee was under the influence of drugs or alcohol at the time of the incident.

Finally, many employers in industries such as transportation and healthcare are legally required to drug test their employees to comply with federal or state laws. For example, the US Department of Transportation requires all CDL truck drivers to undergo drug testing before working in a safety-sensitive position.

A recent National Institute on Drug Abuse study found that employees who use drugs are 2.5 times more likely to be involved in on-the-job accidents than employees who don't.



## What are the common methods of pre-employment drug screening?

There are several ways to conduct pre-employment drug screening. The most common method is to have the potential employee go to a collection location and provide a urine sample, which is then sent to a laboratory for testing.

Urine tests are generally the most effective way to screen for drug use, as they can detect a wide range of drugs, including marijuana, cocaine, amphetamines, and opiates. Urine tests can also be used to detect the presence of alcohol. While urine tests are generally accurate, there are a few potential drawbacks:

1. Urine tests can only detect drug use within the past few days, so they may not be able to detect chronic drug use.
2. Urine specimens are susceptible to tampering via dilution or adulteration.
3. Urine tests may be considered invasive, requiring the applicant to provide a urine sample.

Alternatives to urine drug testing include hair drug tests and saliva drug tests. Hair drug tests can detect drug use that occurred up to 90 days before the test, making them more effective at detecting chronic drug use than urine tests.

However, hair drug tests are more expensive than urine tests and do not detect recent or current use. Saliva drug tests are less invasive than urine tests, as they only require the applicant to provide a saliva sample. However, saliva drug tests are less effective than urine tests, as they can only detect drug use within the past few hours.

## Ensuring Workplace Safety

Drug testing can also act as a deterrent, discouraging individuals from using drugs, reducing absenteeism, and promoting a healthy workplace. This policy fosters a culture of responsibility and accountability, reducing the likelihood of substance-related incidents and accidents.



### Test Accuracy

Employers should be aware that some factors can impact the accuracy of pre-employment drug screens.

For example, the type of drug being tested for, the sensitivity of the test, and the length of time since the last drug use can all impact the accuracy of the test. Drinking lots of water before a urine test may cause the test to be dilute and may require a retest.

### Managing Failed Drug Tests

If a candidate fails a pre-employment drug test, employers must follow their workplace safety program policies to ensure fair and consistent treatment of their candidates. Using a qualified third party to validate drug tests is a significant benefit of accredited drug testing services.

Drug testing services use certified Medical Review Officers (MRO), licensed physicians responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for specific drug test results.

Medical Review Officers (MRO) help ensure fairness to the candidate or employee and offer the employer/agency more protection surrounding the validity and reliability of the overall drug testing process.

In the event of a failed drug test, an MRO will take the following steps that comply with federal [drug testing workplace programs](#), such as:

- Review all appropriate documentation.
- If an initial drug test is negative, the findings are confirmed, and the results are sent to the employer.
- If the initial drug test is positive, the MRO will contact the candidate to see if they are on any medications or have any other legitimate medical explanation for the positive result (usually within 24 hours). If the candidate does not answer, the MRO may leave up to three voicemails.
- The candidate has 72 hours to respond. If there is no response within that time, the MRO notifies the employer to have the candidate contact the MRO. The MRO can only characterize the test as non-contact positive, which means that the MRO has not yet interviewed the donor.
- Once the MRO completes the interview an amended result will be reported.

## Creating a Drug and Alcohol Policy

Need to create a drug and alcohol policy for your company? We recommend you consult your Legal team to ensure your policy aligns with state laws. Here's a sample policy from [SHRM](#) to help you get started.



State laws vary regarding the steps employers must take if a candidate fails a drug test. If an employer makes a job offer contingent on passing a drug test, the offer can generally be rescinded if the applicant fails, but there may be more steps that employers must follow.

In states where marijuana is legal, employers may need to follow specific guidelines before making an adverse employment decision.

## Communicating the next steps with the candidate

According to the Fair Credit Reporting Act (FCRA), employers must provide candidates with a pre-and final adverse action notice if they decide not to hire an employee based on a positive drug screening result. These notices inform candidates that they failed their drug test, so the employer has decided not to move forward with a job offer.

Failure to execute the pre- and final adverse action process can result in penalties and litigation, so employers must follow their workplace drug testing policies closely and consult their legal team if there are questions.

## Navigating the New Laws Around Marijuana

As of 2023, the recreational use of marijuana is legal in 23 states, including Guam, the District of Columbia, and the North Mariana Islands. As more states move towards legalizing or decriminalizing marijuana, employers face new challenges in maintaining their zero-tolerance stance on drug use.

From an employer's perspective, the evolving legal landscape raises concerns about balancing individual rights with workplace safety and productivity. While employees may legally consume marijuana outside working hours, it is unclear whether its lingering effects can still impact job performance and safety the following day.

Strategies involve emphasizing impairment testing over blanket drug screening, focusing on job performance rather than off-duty conduct, and omitting THC from pre-employment drug screening altogether. As the marijuana debate unfolds, employers must adapt policies to strike the proper equilibrium between respecting personal choices and maintaining a secure work environment.

## Summary

A comprehensive drug testing program can help to attract and retain the best and brightest. It's not just about ticking boxes; it's about showing candidates you're invested in their safety, fostering a professional atmosphere, and setting a high bar for everyone.

## How Can InCheck Help?

We are committed to helping you make the best informed staffing decisions based on comprehensive, accurate reporting.

At InCheck, we provide comprehensive background screening and monitoring services with a collaborative and customized approach. With solutions in every key area of the screening process, from criminal search to verifications, drug testing and occupational health services, InCheck delivers accurate results to give your organization confidence.

InCheck offers a robust suite of drug screening services easily tailored to fit both pre-employment and post-employment job requirements. We partner with you to implement the best, most effective drug screening program.

We oversee every aspect of the drug screening process on your behalf, partnering with an extensive nationwide network of 1000s of clinics, facilitating all communication, and enabling easy self-scheduling for candidates and employees.

## Drug Screening Services

- Pre-Employment Drug Testing
- Random Drug Testing Programs
- Post-Accident and Reasonable Suspicion Testing
- DOT and Non-DOT Drug Test Management



Learn more about how InCheck can help!

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