**Section § 382.605: Referral, evaluation, and treatment.**

## Guidance Q&A

**Question 5: How will the SAP evaluation process differ if the employee is discharged by the employer rather than retained following a rule violation?**

**Guidance:** After engaging in prohibited conduct and prior to performing safety-sensitive duties in any DOT regulated industry, the employee must receive a SAP evaluation. And, when assistance with a problem is clinically indicated, the employee must receive that assistance and demonstrate successful compliance with the recommendation as evaluated through an SAP follow-up evaluation.

The SAP process has the potential to be more complicated when the employee is not retained by the employer. In such circumstances, the SAP will likely not have a connection with the employer for whom the employee worked nor have immediate access to the exact nature of the rule violation. In addition, the SAP may have to hold the synopsis of evaluation and recommendation for assistance report until asked by the employee to forward that information to a new employer who wishes to return the individual to safety-sensitive duties. In some cases, the SAP may provide the evaluation, referral to a treatment professional, and the follow-up evaluation before the employee has received an offer of employment. This circumstance may require the SAP to hold all reports until asked by the individual to forward them to the new employer. If the new employer has a designated SAP, that SAP may conduct the follow-up evaluation despite the fact that the employee’s SAP has already done so. In other words, a new employer may determine to its own satisfaction (e.g., by having the prospective employee receive a follow-up SAP evaluation utilizing the employer’s designated SAP) that the prospective employee has demonstrated successful compliance with recommended treatment.