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In the area of drug and alcohol collections, recent changes to Department of Transportation (DOT) regulated collections have collection providers and their clients traversing uncharted territory. New regulations over the past two years regarding observed collections have left many questions about how to interpret the regulations, how to respond to audits and what issues should be raised with the DOT to improve the collection process. Problems with Custody and Control Forms (CCF) and resistance to technology have further hindered progress, but hope is on the horizon. >>



Uncharted Territory

NAVIGATING THE CHANGING LANDSCAPE OF DOT COLLECTIONS

BY SUSAN GILMARTIN

Like a rock thrown into calm waters, the new DOT Direct Observation (DO) regulations, one of which went into effect in August 2008 and the other in July 2009, have sent ripples of shock waves through a collection industry already struggling with issues in the collection process. From inconsistent interpretations of the existing and now new regulations to challenges with releasing audit results, there are several issues with the new regulations that confound collection entities, not to mention old problems lingering in the background that require resolution. There are ways to navigate through the changing landscape of DOT collections, however, and map a course for a better collection process in the future. It starts with a thorough understanding of the past.

A wrong turn

Many factors precipitated the DOT's decision in 2008 to begin more aggressive scrutiny of collection entities and to change 49 CFR Part 40 regulations concerning direct observations, but none more so than the Government Accountability Office's (GAO's) 2007 and 2008 undercover investigations of numerous collection providers. These investigations, which highlighted numerous violations in the collection process, were the springboard for the changes that occurred thereafter. The GAO's investigations forced the collection industry to take a hard look at the entire collection process, prompting many collection entities to take swift corrective action to ensure their collection sites adhere to all DOT regulations.

Redirecting our course and moving forward begins with collaboration between all of us in the industry.

The DOT responds

As a result of the GAO's investigations, the DOT enacted in August 2008 a new DO procedure that requires all collections under direct observation to be even more invasive than before. In July 2009, a collection under these new direct observation procedures became mandatory for employees tested for Return-to-Duty and Follow-up testing. Testing under these circumstances was no longer an option at the employer's discretion as it had been in the past.

In addition, the DOT took several other steps to ensure collection entities cleaned up their act. First, they enacted stricter penalties on collection entities repeatedly violating 49 CFR Part 40 regulations. The DOT has increasingly used Public Interest Exclusions (PIEs) and/or fines to enforce compliance of regulations over the past two years. Second, they have increased the number of audits of collection sites and transitioned from announced to unannounced audits. Some audits they even perform undercover, posing as fictitious employees. Third, they recommended collection entities audit their own sites and encouraged employers and third party administrators (TPAs) to audit their collection vendors. Lastly, they developed several tools, such as videos and posters; to help collection sites understand and adhere to the current regulations.

Now entering the State of Confusion

Anyone who is a veteran member of the collection industry understands that ours is a complicated business, whether you're a collection entity, an employer, a TPA, a collector or the DOT. Addressing the myriad of issues with the collection process, attempting to thwart the efforts of employees trying to beat the system, creating a quality collection program that meets the needs of all involved, while

maintaining collection privacy, integrity and security, is no small feat. Equally complex is designing solutions to fix the issues in the industry, which is why the last two years illuminated some problems with fixing the problems, especially concerning the audits.

As mentioned before, the DOT ramped up collection site audits, increasing the number of unannounced visits and even including undercover auditors. This step was a fundamental necessity to improving the collection process. However, the DOT has been unable to release audit results to many collection sites. This information would undoubtedly prove helpful in taking corrective action. Understandably, there are issues regarding privacy and release of data to consider, but release of this information to the entity audited is a top priority so that sites can address violations and prevent them from happening in the future.

There are also issues regarding the interpretations of the regulations. Just as when you have three mechanics tell you how to fix your car and they all come back with a different approach to get it running, every DOT auditor has a slightly different approach to collection site audits. As a result, not every DOT auditor is interpreting the regulations the same way, creating confusion among collection sites about what procedures to follow.

A continuing problem in the auditing process is the lack of a standard audit form that all DOT agencies use when performing audits. Undoubtedly, every DOT agency needs to customize part of the audit to accommodate their unique market, but most of the audit process is the same. Yet, there is no standard audit form that has been released to collection entities to date.

Again, problems are to be expected in a complex business such as drug and alcohol collections. Working collaboratively, however, we can resolve many of them, which is the focus just ahead.

Forging a new path

Redirecting our course and moving forward begins with collaboration between all of us in the industry. There are many things collection entities, working with clients and the DOT can do right now to improve the collection process.

The first step is to establish open lines of communication between collection entities and the DOT. If you are a collection entity and don't know DOT agency personnel well, give them a call. Establish rapport, discuss industry concerns, start a dialog. A strong, positive working relationship with your DOT representatives is key to creating a successful collection program. Along the same lines, collection entities and clients should work together in more of a partnership to report and correct problems in securing collection sites. Sharing responsibility for improving the collection process and having open communication will reveal new opportunities for creating an error-free collection process.

Collection entities should develop their own audit process if they haven't already. It should be a formal process that involves all collection sites and includes aggressive commitments to audit a predetermined number of sites per quarter. Share the program with clients and encourage them to perform audits, too. Collaborate together to create the program so it serves everyone's needs and encourage clients to report problems found during their audits so collection entities can correct them. Working with your DOT representatives, create an audit form that they approve and are as comprehensive as their own.

The DOT has provided several tools to help understand and adhere to collection regulations, but every collection provider should create their own, specifically designed to meet their organization's unique needs. Develop job aids and checklists for restroom compliance, urine collection, BAT collection, shy bladder, and DO collections. Hang posters with reminders in

common areas and ensure every collector has a copy of the 49 CFR Part 40 regulations. Even with a comprehensive training and credentialing program, collectors benefit from repeated reminders of specifics.

Consider creating qualification training for observers of direct observation collections. Although this is not required by the DOT, there are many nuances to the new regulation that make this training a good idea. For example, observers must not touch the specimen at any time. If they do, the chain of custody is broken and the collection may be cancelled. Some employees who know they will test positive will use this caveat to their advantage, asking less knowledgeable observers to hold their specimen for a moment while they right themselves after the collection.

And, of course, every collection entity should have a comprehensive collector training program, best practices for collections, a complete quality management process, a good collector communication strategy and should stay informed about the industry.

In the same lane as the DOT

Collection entities and employers can do a lot to improve collections on their own, but to really bring the collection process to the next level we need to create a more collaborative partnership with the DOT and its agencies by helping them understand the problems that need resolution.

Starting with audits, we need the DOT to ensure all DOT inspectors are on the same page regarding interpretation of regulations. With some inspectors saying employees should raise pant legs to see if bulky items appear under the socks (something not required in the regulations) and other inspectors reprimanding collectors



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who have followed this guidance, there is much confusion about enforcing regulations properly.

We also need the DOT to provide meaningful feedback from unannounced audits. As it stands now, often times the inspector leaves the site without providing any feedback to the collector, verbal or written, as to the results. Little or no feedback is provided by the inspector to the collection entity upon his/her return to the office. Not sharing such valuable information undermines the integrity of what is trying to be accomplished. By sharing the results, the collection entity could take the necessary corrective action to mitigate future like issues.

In addition, if collection entities could receive a copy of a standard audit form used by the DOT, they could better tailor their own audit program to regulations, modeling it after the DOT's program. Currently, no standard form exists, leaving every collector, collection entity, employer, TPA, and others involved in the process to draft their own, leading to differing results and expectations. Besides a standard form, we need the DOT to provide guidance about the minimum number of audits we should complete based on the size of our collection sites, as well as advice about how many collection errors are too many.

Included in this new collaboration should be an understanding that punitive action alone is not going to change behavior. The approach to resolving issues with the collection effort requires support, education, training, and collaboration between everyone in the industry, whether you're a collection entity, collector, employer, TPA, or a member of the DOT staff. All of us are vested in a better collection process and want to contribute to its success

Movement to improve the print quality of the current CCF would prove beneficial to numerous parties as well. Today's

CCF becomes illegible when transmitted to the Employer and the MRO via fax and scanning. The last changes to the CCF occurred in Aug 2001. Prior to that time, the majority of CCF copies were simply sent via US Mail. In August 2001, however, new rules were enacted in which the requirement was made that collectors must electronically transmit copies of the CCF to the Employer and the MRO within 24 hours of completing the collection. Not addressed, however, was the print quality of the forms. Once faxed or scanned, more often than not, what results on the other side is not readable. This results in considerable effort by numerous parties to obtain a legible copy for the record.

The quality of the paper used for CCF purposes is thin, adding to the faxing/scanning quality issue. The text typewritten by the Laboratories is too light further exacerbating the problem. Addressing such issues and improving upon such would significantly reduce the amount of time, effort, and expense currently expended by Labs, MROs, Employers, and Collection personnel.

Beyond the horizon, technology is the future

Momentum must be built and focus directed toward automating the collection process as much as possible. Soon collectors will be required to check a box in Step 1 indicating what agency the collection is for. The addition of checkboxes to the current CCF just leaves more room for collector error. While the recording of this information is helpful for MIS reporting purposes, again, the burden is placed at the collector level to take an additional action in selecting the correct box. Today's most significant issue with the CCF is incomplete information. If the collector neglects to check this new box, is such considered an error? Will

result reporting be delayed? Will the completion of an affidavit be required?

There exists today the technology to place a printer at all collection sites utilizing carbonless CCFs. It's time to consider doing away with the five-part form. Some organizations have thousands of clients, using one of more than 30 SAMHSA-certified labs, all with a different CCF. The printing, shipping and stocking of these CCFs poses tremendous time and expense restraints on an industry already under the gun for accuracy and timeliness.

Forensically viable carbonless CCFs mean electronic data entry; no more illegible collector writing or Lab interpretation of such. The Employer and MRO copies of the CCF may be transmitted electronically to all parties thereby providing a very legible copy on their end. An electronic application would allow the use of a "wizard" throughout the completion of the CCF thereby mitigating the collector errors i.e., by not allowing one to move forward until current step is completed. Necessary requirements may be met by the capturing of both a wet and digital signature. Finally, technology such as this would provide enhanced ability for all interested parties to see the status of the collection at any point in the process.

Our course is set

Navigating the changing landscape of DOT collections could be a bumpy ride, but not if we all work together to bring the collection process to the next level. If we can rise above our own limited objectives and see the larger goal of a better collection process, we can make collections more efficient, better serve employers and employees, stringently adhere to all regulations, and ensure collectors have the tools and training they need to be competent in their jobs. ■



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