

ensuing after the individual has been discharged for misconduct connected with his work and until such individual has become re-employed and has earned wages equal to or in excess of 10 times his weekly benefit amount.

### ***Discharge for refusal to undergo drug and alcohol testing (Section 2-406.1, Oklahoma Employment Security Act)***

An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a confirmed positive drug or alcohol test conducted in accordance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act shall be considered to have been discharged for misconduct and shall be disqualified for benefits pursuant to provisions of Section 2-406 of the Oklahoma Employment Security Act. In any claim brought by the discharged employee for compensation, a copy of the drug or alcohol test shall be accepted as prima facie evidence of the administration and results of the drug or alcohol test.

### ***Cases involving positive drug or alcohol tests (Section 2-406.1, Oklahoma Employment Security Act)***

In order to establish that the drug or alcohol test of an unemployment insurance claimant was conducted in accordance with the Standards for Workplace Drug and Alcohol Testing Act, 40 O.S. §551 through 565, the employer must produce the following documentation.

- Documentation of a positive test result issued by the testing facility that performed the test
- Documentation of the chain of custody of the testing sample from the point of collection to the testing facility
- The medical review officer's certification of proper testing standards and procedures
- A statement concerning the circumstances, as set out in 40 O.S. §554, under which the testing was requested or required
- A copy of the employer's drug testing policy, as required by 40 O.S. §555
- Documentation showing that the employer provides an employee assistance program, as required by 40 O.S. §561
- Any evidence relevant to the adjudication of questions of fact or law regarding drug or alcohol testing that may be an issue in the claim for unemployment benefits

The claimant must be tested for a valid reason. Valid reasons include but are not limited to:

- testing of a new applicant.
- testing under reasonable suspicion
- post-accident testing
- random testing
- scheduled periodic testing