United States Department of Energy
Office of Hearings and Appeals

In the Matter of: Personnel Security Hearing	)	
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Filing Date: March 23, 2026	)	Case No.: PSH-26-0079
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Issued: August 25, 2026

Administrative Judge Decision

Noorassa A. Rahimzadeh, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."[1] As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

I. Background

In January 2026, a Personnel Security Information Reporting Form was submitted to the local security office (LSO), indicating that a post-accident drug and alcohol test related to the Individual, which was conducted in December 2025, was positive for various substances, including Fentanyl and Norfentanyl. Exhibit (Ex.) 5 at 24–27; Ex. 6 at 30–37.[2] The Individual was able to produce a prescription for every substance for which he tested positive, except for the Fentanyl. Ex. 5 at 26. As a condition to return to work after the positive drug test, his employer required that he attend an "approved outpatient substance treatment program for up to 24 weeks." Ex. 4 at 19, 21. However, the outpatient treatment program with which the Individual consulted performed an evaluation in late January 2026, and only recommended education. *Id.* The Individual voluntarily submitted to a urine drug test, for which the specimen was collected in mid-January 2026. Ex. B. The results were negative. Ex. B1. A return-to-work urine drug test, for which the specimen was collected in late January 2026, was negative for all substances. Ex 4. at 22.

[1] The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

[2] This Decision will refer to the Bates numbering when citing to exhibits submitted by DOE and the PDF page number when citing exhibits submitted by the Individual.

The LSO began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him that it possessed reliable information that created a substantial doubt regarding his eligibility for access authorization. In a Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under and Guideline H (Drug Involvement and Substance Misuse) of the Adjudicative Guidelines and prohibited him from holding a security clearance pursuant to the Bond Amendment, 50 U.S.C. § 3343(b). Ex. 1. The Notification Letter informed the Individual that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual testified on his own behalf and presented the testimony of his wife, physician, superintendent, manager, and a drug and alcohol administrator with his employer. *See* Transcript of Hearing, OHA Case No. PSH-26-0079 (hereinafter cited as "Tr.") The Individual submitted sixteen exhibits marked as Exhibits A through O, including Exhibit B1. The DOE Counsel submitted thirteen exhibits marked as Exhibits 1 through 13.

II. Notification Letter

Guideline H

Under Guideline H of the Adjudicative Guidelines, the illegal use of controlled substances "can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with law, rules, and regulations." Adjudicative Guidelines at ¶ 24. Conditions that could raise a security concern under Guideline H include "any substance misuse" and "any illegal drug use while granted access to classified information or holding a sensitive position." *Id.* at ¶ 25(a), (f). In invoking Guideline H, the LSO cited the fact that the Individual tested positive for Fentanyl for which he did not have a prescription in January 2026, "while in possession of a DOE security clearance[.]" Ex. 1 at 5. The LSO's invocation of Guideline H is justified.

Bond Amendment

Under the Bond Amendment, "the head of a Federal agency may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict[.]" 50 U.S.C. § 3343(b). "Controlled substance" is defined with reference to 21 U.S.C. § 802(6), which defines it to include Schedule II substances under the Controlled Substances Act, such as Fentanyl. 21 U.S.C. § 812. The LSO alleged that the Individual tested positive for Fentanyl, a Schedule II substance for which he did not have a prescription, in January 2026, following a "post-accident drug test." Ex. 1 at 5. The LSO's invocation of the Bond Amendment is justified.

III. Regulatory Standards

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Findings of Fact and Hearing Testimony

The Individual's treating physician, who prescribes the Individual pain-relieving opiate medications, indicated that the Individual has been a patient at his practice since 2008. Tr. at 39, 42; Ex. D. As the Individual has been prescribed the aforementioned pain-relieving medications, it is the practice of the Individual's doctor to require and administer urine drug testing. Tr. at 43. This is not only standard practice but also required by state law. *Id.* Since approximately 2017, the Individual has submitted to twenty urine drug tests, all of which were negative for Fentanyl and indicative that the Individual was "compliant" with his treatment.[3] Tr. at 44, 46; Ex. E. The last date a urine test was administered by the Individual's physician's office was in early March 2025. Ex. E. The Individual's physician denied ever seeing anything from the Individual that suggests a substance use disorder. Tr. at 44–45. He did testify that three other patients in his practice had urine drug tests come back positive for Fentanyl, which caused him to try and "find out what lab those reports . . . had come from[,]" but he was unsuccessful. *Id.* at 45. He did, however, retain his suspicion that these positive results were false positives. *Id.* The Individual's physician could not say why Fentanyl was found in the Individual's urine drug screen from December 2025, but he would be surprised to find out that the Individual was taking an opioid in addition to the medication the Individual is currently taking.[4] *Id.* at 50. The Individual confirmed in his testimony that he is on prescription opioid medication for pain relief, and that his current pain relief medication is

[3] Tests are administered randomly every three to six months. Ex. D; Tr. at 53. Among other illicit and legal substances, the practice checks for Fentanyl. Tr. at 54.

[4] The use of Fentanyl in addition to the medicine the Individual is currently using would "increase the chances of an overdose because of the combined effect[.]" Tr. at 52.

effective. *Id.* at 168–70. He stated that he has not, accordingly, attempted to treat his pain with a different substance or medication, like Fentanyl. *Id.* at 170–71.

On the day of the on-site accident, December 30, 2025, the Individual was operating an employer provided pick-up truck when he lost control and crashed into a fence. *Id.* at 68. Following the accident, the Individual's superintendent and several investigators reported to the scene. *Id.* The Individual told them that the truck lurched forward and the brakes failed to work correctly.[5] *Id.* at 70, 174–76, 180, 252. The Individual's superintendent escorted the Individual to "site medical" to complete a urine drug test. *Id.* at 73. Following the positive test result, the Individual explained to his superintendent that "he had no idea how [Fentanyl] could have got in his system[.]" *Id.* at 73–74; *see also id.* at 182, 185 (Individual denying in his hearing testimony that the accident occurred due to any drug use and testifying that he had no concerns or worries when he submitted to the post-accident drug test).The Individual's superintendent testified that he has never had any concerns with the Individual's work performance or his trustworthiness, and has never had any disciplinary issues with the Individual. *Id.* at 61. He has never seen the Individual "appear to be under the influence of any drugs" and never suspected any issues with illicit substances. *Id.* He did not feel that his interactions with the Individual on the day of the accident indicated that the Individual was under the influence "of any drug[.]" *Id.* at 66. Similarly, the Individual's manager indicated that it would be "very uncharacteristic" of the Individual to have a positive urine test for Fentanyl. *Id.* at 81. The Individual's manager said that the Individual sat across from him, "looked [him] straight in the eye" and swore that he did not take any substance for which he did not have a prescription. *Id.* at 82. The Individual's manager spoke to him via telephone after the accident occurred, and he did not have any suspicions that the Individual was under the influence of any substance. *Id.* at 86.

Subsequent to the positive drug test, the Individual provided documentation of his medication, which accounted for the other opioid substances for which he tested positive. *Id.* at 173. He also learned that Fentanyl had been used during his dental surgery in September 2025. *Id.* at 143; Ex. F at 21. The Individual obtained medical records from his surgery and submitted them to a Medical Review Officer, who was responsible for providing the Individual with his urine test results from December 2025, but they were rejected as an explanation for the positive December 2025 test. Tr. at 172–73, 190–91, 239–248; Ex. 5 at 28. The Individual voluntarily sought out another urine test in mid-January 2026, which came back negative for Fentanyl and its metabolite. Ex. B; Ex. B1.

As indicated above, pursuant to the instructions he received from his employer to enroll in a recovery and abstinence program, the Individual underwent an evaluation by the treatment facility, resulting in the recommendation that he attend a two-hour substance abuse education course instead of a recovery and abstinence program, which the Individual completed. Ex. G; Ex. 4 at 19; Tr. at 199–200, 202. A specialist at the facility where the Individual completed the substance abuse education indicated in a January 2026 letter that the Individual is "motivated and committed to making low risk choices, to maintain his employment[.]" Ex. G.

[5] To the best of the Individual's superintendent's knowledge, the vehicle was taken to a vendor for inspection or examination to reveal what caused the accident. Tr. at 71–72. The vendor "[did not] find anything" wrong with the vehicle. *Id.* at 72. It was also revealed that this was not the first time the Individual experienced this problem with the vehicle, and he had previously reported the issue to his superior. *Id.* at 93–95, 253–54.

The Individual submitted to a return-to-work drug test January 2026, which came back negative. Tr. at 114, Ex. C; Ex. 4 at 22. In late February 2026, approximately two months after the positive urine test, the Individual submitted to a hair test, which was negative for all substances, including opiates.[6] Ex. I; Ex. M; Tr. at 208. The Individual's physician testified that urine would test positive for Fentanyl between three to thirty days after last use and hair will test positive between seven to ninety days after last use, depending on the dose.[7] Tr. at 51. Also following the negative return-to-work test, the Individual was required to meet with an Employee Assistance Program (EAP) therapist. *Id*. at 204. However, he stated that he "was escorted off site [in early January] and never got to meet with [the EAP counselor]." *Id.* at 205.

The Individual testified that even before the late December 2025 post-accident test, he was subject to more regular testing, as he held a certification in the Human Reliability Program (HRP), which was relinquished through no fault of his own prior to the December 2025 urine test.[8] *Id*. at 62–63, 163–64; Ex. N. Through his testimony, the Individual admitted that of all the tests that he took at the behest of his employer, the December 2025 test was the only one to come back positive for any substance for which he does not have a prescription. Tr. at 224. Further, he admitted that the December 2025 test was only partially incorrect, as it did capture the substances for which he does have a prescription. *Id.* at 224–32, 236. The Individual explained that the negative hair test had borne out his assertion that he had not used any Fentanyl in the relevant testing period. *Id.* at 235. He stated his belief that the December 2025 test had to have been the result of a false positive. *Id.* at 237.

The Individual's wife testified that she has never seen the Individual use any illegal substances, and in his youth, he was even afraid of being in the same room as someone who was using an illicit substance. *Id.* at 134. She has seen him use his pain medication but has never seen him "abuse any of the prescription medications" that he takes. *Id.* at 134–35. Based on his behavior, she has never been suspicious that the Individual was under the influence of drugs, she has never found drugs in her home, and she has never seen her husband "high" or "observed unexplained intoxication" in her husband. *Id.* at 135–36. She also explained that their daughter began experiencing severe anxiety surrounding, among other things, Fentanyl. *Id.* at 141–42. The Individual is aware of his daughter's fear. *Id.* at 142. She feels that the positive test may have been the result of contamination "or that it [was not] even his urine sample that was tested." *Id.* at 149–50.

The drug and alcohol administrator who testified at the hearing clarified that it is her office's responsibility to "oversee the drug and alcohol program," including administering drug tests, at the DOE site at which the Individual works. *Id.* at 105. She explained that once an individual receives their test results, they have 72 hours to ask for the sample to be retested. *Id.* at 108. The Individual asked for his results to be retested months after receiving them, which was her first

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[6] As indicated above, the hair test tested for a number of substances, including opiates, in general. Ex. I. Although synthetic, Fentanyl is an opioid. *Fentanyl Facts* (April 2, 2024), www.cdc.gov/stop-overdose/caring/fentanyl-facts.html (last accessed on August 24, 2026). The medications for which the Individual has a prescription are also opioids. Ex. D.

[7] Fentanyl is a "slow-dissolving" drug because it is stored in fat cells, and accordingly, a "long-acting opioid[.]" Tr. at 52.

[8] Prior to the December 2025 urine drug test, the Individual was last tested in July 2025. Ex. N.

experience with such a request. *Id.* at 108–09. She explained that urine specimens are kept frozen at the laboratory, as per regulations, which allows them to retest samples as necessary. *Id.* at 115. Accordingly, the specimen that the Individual requested to be retested was also kept frozen. *Id.* at 115–16. She is also not aware of any false positives for Fentanyl. *Id.* at 126–27. After the hearing, the Individual submitted the report of the controlled substance test result for the retested December 2025 specimen, which reconfirmed the positive Fentanyl result. Ex. O.

V. Analysis

Guideline H

Conditions that could mitigate Guideline H security concerns include:

(a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including but not limited to:

(1) disassociation from drug-using associates or contacts;
(2) changing or avoiding the environment where drugs were used; and
(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;

(c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and

(d) satisfactory completion of a prescribed drug treatment program, including but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Adjudicative Guidelines at ¶ 26(a)–(d).

The Individual has failed to mitigate the stated Guideline H concerns. The Individual submitted to a hair test in February 2026, two months after he tested positive in December 2025. Accordingly, based on the testimony provided by the Individual's own physician, depending on the date of last use and how much Fentanyl was used, the test results could be negative and fail to capture any use that occurred prior to the December 2025 accident. Perhaps more concerning, the hair test results failed to indicate that the test captured the opioid medication for which the Individual has a prescription and he is known to use. As indicated above, the Individual is on opioid medication, for which he tested positive following the December 2025 urine test. The Individual provided valid prescriptions, and his physician testified that the Individual has been a patient at his practice since 2008 to receive the pain-relieving medication. The Individual presented no evidence at the hearing

that he stopped using his opioid medication. As the hair and urine tests tested for opiates, based on the information before me, the hair test should have tested positive for the prescription opioid medication that the Individual uses. Therefore, the efficacy or accuracy of the hair test is thrown into question. Further, while the Individual submitted evidence of two negative urine tests taken subsequent to the December 2025 test, based on the Individual's physician's testimony, those results could have been negative in spite of the Individual's pre-accident Fentanyl use, depending on how much Fentanyl was used and the date of last use. The subsequent tests, while they demonstrate at least some period of abstinence, are not dispositive of whether the Individual used Fentanyl prior to the December 2025 urine test. The same logic holds true with respect to the medical evidence pertaining to the Individual's dental surgery. The surgery occurred in September 2025, approximately three months prior to the December 2025 urine test. Based on the physician's testimony, it is very unlikely that the December 2025 test was positive for Fentanyl due to oral surgery because approximately three months had elapsed from the date of the surgery to the date of the test.

I am also unconvinced by the Individual's assertion that the December 2025 test result must have been a false positive or that the specimen was somehow contaminated. As an initial matter, he presented no evidence of what could cause a false positive and whether those conditions existed at the time he tested in December 2025. Further, I am skeptical that the December 2025 test would have correctly captured the substances for which the Individual has a prescription but incorrectly captured the presence of Fentanyl and its metabolite. Again, without any further evidence to support this claim, this assertion seems illogical. I, therefore, remain without a reasonable explanation as to why the Individual tested positive for Fentanyl other than that he intentionally used Fentanyl without a prescription.

The positive test result was for an illicit substance that has gained a significant amount of notoriety as being a very lethal drug, even though it does have legitimate uses. It is a severe drug. I have, accordingly, taken the nature of this drug into account. *See* 10 C.F.R. § 710.7(c) (requiring consideration of "[t]he nature, extent, and seriousness of the conduct" and "the circumstances surrounding the conduct" in applying the mitigating conditions). As the Individual tested positive for this substance less than one year prior to the hearing, I cannot conclude so much time has passed. Further, because of the nature of the drug, I cannot conclude that the use was infrequent enough to quell any concerns. This is especially true because Fentanyl is used as an analgesic, hence, the use of the drug during the Individual's oral surgery. The record has established that the Individual is on prescription medication to manage his ongoing pain. It is, therefore, a logical concern that the Individual would opt to use something like Fentanyl to assist in his pain management. Under these circumstances, one use poses the threat of continued use and suggests that use under such circumstances is not unlikely to recur. Although the record does contain evidence of previous and subsequent negative drug tests, demonstrating at least some short periods of non-use, these negative tests are not sufficient in light of the severity of the drug and the limited duration that they covered. Further, considering the probability that the Individual used Fentanyl in secret and concealed this behavior from the LSO, his doctor, and his wife, there are substantial concerns with respect to recurrence. I therefore cannot conclude that the use was so infrequent or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment. Mitigating factor (a) has not been met.

With respect to mitigating factor (b), the Individual never acknowledged his substance misuse. In fact, he denied he ever used Fentanyl, despite testing positive for the substance and its metabolite. He also did not provide evidence of engaging in treatment or a signed statement that he will no longer use any illicit substances. Mitigating factor (b) has not been met.

Mitigating factor (c) is not applicable, as the LSO did not allege any addiction to prescription medication.

Mitigating factor (d) is not applicable. Although the Individual completed a two-hour substance abuse education course, he did not undergo treatment.

For the foregoing reasons, the Individual has failed to mitigate the stated Guideline H concerns.

Bond Amendment

DOE's guidance for application of the Bond Amendment provides as follows:

a. An unlawful user of a controlled substance is any person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance or who is a current user of the controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use occurred recently enough to indicate that the individual is actively engaged in such conduct.

b. An addict of a controlled substance is as defined in 21 U.S.C. § 802(1), which is any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare; or is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his or her addiction.

DOE O 472.2A, Appendix C: Adjudicative Considerations Related to Statutory Requirements, at Page C-1 (June 10, 2022).

The evidence before me indicates that the Individual tested positive for Fentanyl and its metabolite in late December 2025. I have no evidence of a positive test that was administered previously or subsequently. However, as indicated above, I question the truthfulness of the Individual's claim that he never used Fentanyl. Firstly, the record indicates that the Individual tested positive for Fentanyl in December 2025, and the retested specimen result confirmed the same. The last test in the record is from February 2026, which was five months before the hearing. I have no testing to corroborate any assertion that the Individual has refrained from using Fentanyl in the five months before the hearing. Further, the Individual has not undertaken any action, like treatment or therapy, to illustrate that he has altered his lifestyle in any way to protect against any use. Based on this information, I can only conclude that the Individual has used this substance "recently enough to indicate that the [I]ndividual is actively engaged in such conduct." For the reasons stated above, I

find that the Individual is an "unlawful user of a controlled substance" prohibited from holding a security clearance pursuant to the Bond Amendment, 50 U.S.C. § 3343(b).

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked the Bond Amendment and Guideline H of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth enough evidence to establish that the Bond Amendment does not bar him from holding an access authorization and has not brought forth sufficient evidence to resolve the Guideline H concerns set forth in the SSC. Accordingly, the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, I find that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Noorassa A. Rahimzadeh
Administrative Judge
Office of Hearings and Appeals