

Medical Marijuana is Federally Legal in Most States—Now What?

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The U.S. Department of Justice (DOJ) recently reclassified **medical** marijuana into a less restrictive category of drugs, recognizing certain legal uses of it at the federal level. This shift has potential implications for Community Action Agencies (CAAs) when assessing requests for accommodation from employees with medical marijuana cards, complying with the Federal Drug-Free Workplace Act, and conducting drug testing especially for federal Department of Transportation programs. The reclassification does not impact the federal treatment of marijuana possessed, distributed, and used for **recreational** purposes, which remains in the most restrictive category of drugs.

The reclassification only applies to medical marijuana approved by the Federal Drug Administration (FDA) or that is legal at the state level, thus:

- For CAAs in states where medical marijuana is legal, the federal reclassification now means that it is legal at the federal level as well.
- For CAAs in states where medical marijuana is not legal, the federal reclassification does not apply, and medical marijuana remains illegal at the federal level in those states.

In other words, the federal reclassification is contingent on a state's medical marijuana laws and will therefore apply differently depending on the legal framework at the state level.

Rescheduling via the Acting Attorney General

The rescheduling of medical marijuana aligns federal law with state laws that have legalized medical marijuana across the country over the last 30 years. On April 28, 2026, the acting U.S. Attorney General (Acting AG) issued [AG Order No. 6754-2026](#) (AG Order), a final rule rescheduling FDA-approved products that contain marijuana and marijuana subject to a state medical marijuana license (i.e., medical marijuana) from Schedule I to Schedule III under the Controlled Substances Act (CSA).¹ The AG Order followed a December 2025 Executive Order 143702² directing the DOJ to complete the rescheduling of marijuana under the CSA.

The CSA creates a framework for classifying substances regulated by the federal government into one of five schedules.³ Schedule I is the most restrictive classification of drugs.⁴ These are tightly controlled substances that can typically only be legally obtained for specialized research purposes, such as heroin, peyote, and LSD. Schedule III is a less restrictive category, and includes drugs like Tylenol with codeine, ketamine, and anabolic steroids.⁵ Since Schedule III substances have accepted medical uses, an individual can typically obtain them legally with a prescription from a licensed provider.



In rescheduling medical marijuana to Schedule III, the AG Order incorporates existing state licensing frameworks into federal registration efforts. Those authorized to produce and dispense medical marijuana at the state level can register to continue to do so with the federal Drug Enforcement Agency (DEA) under an expedited process. Individuals authorized to obtain and use medical marijuana with a card issued under state law can now continue to do so without violating federal law.

The AG Order is limited in its scope and does not legalize or lift any restrictions on medical marijuana in those states that prohibit its production, distribution, and use. Nor does the AG Order more broadly reschedule marijuana for recreational or other non-medical purposes. The same day the AG Order was released, the Acting AG issued a [notice](#) announcing that the DEA will hold an administrative hearing on June 29, 2026 to consider the proposed rescheduling of marijuana under the CSA more broadly.

Impact of Rescheduling for CAAs

Reasonable Accommodation

The rescheduling of medical marijuana at the federal level clarifies confusion that may have existed around its use as a reasonable accommodation under the Americans with Disabilities Act (ADA) in states that have legalized it. The ADA is a federal law that protects disabled individuals from discrimination and requires employers to engage in an interactive process when a qualified individual with a disability requests an accommodation at work. For purposes of the ADA, those who use illegal drugs are not considered qualified individuals with a disability.⁶ Before the rescheduling, individuals who used medical marijuana in states where it is legal were not consistently protected by the ADA, even when such use was protected under the state's disability discrimination laws.⁷ Following the AG Order, a court's reasonable accommodation analysis under the ADA is likely to shift in states where medical marijuana is legal since it is now treated similarly to other prescription drugs at the federal level and a user may be considered a qualified individual with a disability.

For CAAs in states where medical marijuana is illegal, the use of medical marijuana continues to be unprotected under the ADA because it remains illegal at the federal level. A CAA in those states should consult an employment attorney licensed in the state to fully understand its obligations under the ADA and related state laws.

Federal Drug-Free Workplace Act

The rescheduling of medical marijuana impacts how CAAs comply with the Federal Drug-Free Workplace Act (FDFWA). The FDFWA requires federal grantees to maintain a drug-free workplace and enforce a policy prohibiting the “**unlawful** manufacture, distribution, dispensation, possession, or use of a controlled substance . . . in the grantee's workplace.” Since medical marijuana is now recognized as **lawful** at the federal level, the possession or use of it in a grantee's workplace would not violate the FDFWA.



This means that in states where medical marijuana is legal, the FDFWA does not prohibit a CAA employee from using it in the workplace to address medical issues just as they would other prescription drugs that are controlled substances, such as certain painkillers and appetite suppressants. The FDFWA only addresses what drugs and actions are considered lawful and unlawful for purposes of maintaining federal grant compliance. Other federal laws related to workplace safety, such as the Occupational Safety and Health Act and the Head Start Program Performance Standards, continue to apply and must be considered.

For CAAs in states where medical marijuana is not legal, the FDFWA continues to prohibit the use of medical marijuana in the workplace.

Drug Testing

For CAAs that conduct drug testing, the rescheduling of medical marijuana at the federal level may change how to treat positive marijuana test results. The FDFWA does not require drug testing, nor does it regulate what employees are permitted to do outside of the workplace. However, some CAAs drug test job applicants and employees to show compliance with the FDFWA. A drug test does not differentiate between marijuana taken for medical versus recreational purposes. This means that a positive drug test for marijuana should prompt CAAs to determine if the employee or job applicant is using marijuana for lawful, medical purposes rather than for either recreational or unlawful medical purposes (i.e., taking unprescribed amounts).

In states where medical marijuana is legal, a CAA would now approach a positive result in the same way it approaches similar results for other prescription drugs that are controlled substances. For CAAs in states where medical marijuana is not legal, a CAA should consult with an attorney licensed in its state to fully understand how to reconcile its obligations under applicable state and federal laws.⁹

The rescheduling of medical marijuana has not currently changed drug testing requirements for Department of Transportation (DOT) programs. The DOT has strict drug testing regulations for drivers in DOT-funded programs for Schedule I drugs, including marijuana. After Executive Order 14370 was issued in December 2025, the DOT indicated¹⁰ that it would not change its drug testing regulations until rescheduling was complete. The DOT has yet to respond to the rescheduling of medical marijuana at the federal level. Thus, it is unclear whether DOT will update its regulations pursuant to the AG Order or possibly wait until the hearings this summer are complete.

CAPLAW will continue to monitor these evolving issues and provide updates to the Community Action Network.



END NOTES

¹ [21 U.S.C. § 801 et seq.](#)

² Executive Order 14370, Increasing Medical Marijuana and Cannabidiol Research, available at <https://www.whitehouse.gov/presidential-actions/2025/12/increasing-medical-marijuana-and-cannabidiol-research/>.

³ [21 U.S.C. § 812.4.](#)

⁴ [21 U.S.C. § 812\(b\)\(1\).](#)

⁵ [21 U.S.C. § 812\(b\)\(3\).](#)

⁶ [42 U.S.C. § 12114\(a\).](#)

⁷ See, e.g., *Garcia v. Tractor Supply Company*, 154 F.Supp.3d 1225 (D.N.M. 2016).

⁸ [41 U.S.C. § 8103\(a\)\(1\)\(A\).](#)

⁹ Some states prohibit employers from drug testing employees for marijuana unless required to do so by state or federal law. See, e.g., New York Labor Law § 201-d.

¹⁰ Department of Transportation, DOT's Notice on Testing for Marijuana, available at <https://www.transportation.gov/odapc/marijuana-notice#:~:text=DOT%20OFFICE%20OF%20DRUG%20AND,subject%20to%20testing%20for%20marijuana.>

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