

State of Indiana  
Bureau of Motor Vehicles

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In the Matter of [REDACTED]	)	Case No. 16-CD-018
DL # [REDACTED]	)	
Petitioner	)	

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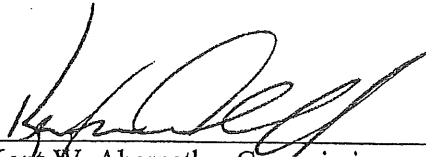
FINAL ORDER


1. This matter comes before me following receipt of a request for reconsideration of the Recommended Order issued by Administrative Law Judge ("ALJ") Steven Sams on August 23, 2016.
2. By letter dated July 5, 2016, Petitioner [REDACTED] ("[REDACTED]") requested administrative review of the Indiana Bureau of Motor Vehicles' ("BMV") March 6, 2015 decision to disqualify his Commercial Driver's License ("CDL"). Additionally, the BMV required [REDACTED] to take and pass all applicable knowledge exams and CDL skills tests prior to the issuance or renewal of a CDL.
3. Although not raised in the initial review or hearing, Ind. Code § 4-21.5-3-7 requires a written petition to review any final BMV driver's license denial to be filed within fifteen (15) days after the person receives notice of the order. [REDACTED] initial request for review was not timely filed, having been received by the BMV more than one full year after he received notice of his disqualification.
4. Despite an untimely request for administrative review, this matter was referred to ALJ Sams for review under Ind. Code § 4-21.5-3-7(a). A hearing was held on August 17, 2016, at which [REDACTED] appeared in person and *pro se*. The BMV was represented by Staff Attorney Michael Barnes.
5. The hearing was recorded. Witnesses were sworn. The BMV proffered witness testimony and offered BMV Exhibits 1, 2, 3, and 4 into evidence. [REDACTED] testified on his own behalf, but did not offer any physical evidence.
6. Each CDL holder must immediately submit an application to the bureau for an amended CDL upon changing his or her name or residential address. *See* 140 IAC 7-3-4(b).
7. [REDACTED] changed his residential address in the Elkhart branch on October 7, 2014. (BMV Exhibit 2).
8. [REDACTED] received notice from the BMV on February 4, 2015 that his medical examiner's certificate had expired and his medical certificate status was "NOT CERTIFIED" on the national Commercial Driver's License Information System ("CDLIS"). (BMV Exhibit 3). This notice stated failure to remit a current certificate and examination to the BMV by 2/4/2015 would result in the downgrade of your CDL and disqualification of your privilege to operate a CMV. (*Id.*).

9. ██████ received notice from the BMV dated March 6, 2015 notifying him his commercial driving privileges were disqualified effective 3/6/2015 due to his failure to submit a current medical examination report and medical examiner's certificate. (BMV Exhibit 4). This notice also confirmed that the BMV would require a current medical examination report and certificate to reinstate ██████ commercial driving privileges. (*Id.*)
10. Under 140 IAC 7-3-17.5(a), a CDL holder may apply to the bureau to renew the person's CDL up to one (1) year prior to the CDL's expiration date.
11. A person applying to renew the person's CDL is not required to take the core knowledge test, endorsement knowledge test, and CDL skills test. 140 IAC 7-3-17.5(b).
12. A person with a CDL that has been expired, disqualified, canceled, revoked, or invalidated for longer than one (1) year must pass all applicable knowledge exams and CDL skills tests prior to the issuance or renewal of a CDL. 140 IAC 7-3-17.5(d).
13. A person who is applying for a CDL after having voluntarily surrendered or relinquished the person's CDL must meet all of the application requirements as if the applicant is applying for an initial CDL. 140 IAC 7-3-17.5(d).
14. ██████ received his initial CDL Class A Learner's Permit Endorsement on January 7, 2002. (BMV Exhibit 1.) That permit expired July 31, 2002.
15. ██████ held a second CDL Class A Learner's Permit Endorsement which expired April 30, 2009. (*Id.*) ██████ held a CDL Class A Endorsement beginning November 6, 2008 which expired March 14, 2013. ██████ renewed that license February 5, 2013. (*Id.*)
16. ██████ had held a Class A CDL since 2008. ██████ changed his address with the BMV at a license branch. The BMV mailed ██████ the required notice to his address of record. ██████ let his medical exam and certificate expire, knowing his CDL would be disqualified on March 6, 2015. As of March 6, 2016, ██████ was required to pass all applicable knowledge exams and CDL skills tests before another CDL could be issued.
17. Accordingly, I find sufficient findings of fact and conclusions of law in the record to substantiate the ALJ's Recommended Order.
18. Therefore, I AFFIRM the ALJ's Recommended Order.

SO ORDERED.

11/8/16  
Date

  
Kent W. Abernathy, Commissioner  
Indiana Bureau of Motor Vehicles

Written notice of this order shall be provided to:  
  
Indiana Bureau of Motor Vehicles