



- c. On July 22, 2015, the BMV notified [REDACTED] by letter mailed to the address of record that her medical certification status was "NOT CERTIFIED" on the national Commercial Driver's License Information System (CDLIS) which may disqualify her ability to operate a Commercial Motor Vehicle (CMV). BMV 2.
  - d. On August 21, 2015, the BMV notified [REDACTED] by letter mailed to her address of record that her commercial driving privileges were disqualified absent a current medical examination report and medical certificate. BMV 3.
  - e. [REDACTED] CDL was disqualified for medical non-compliance, effective 8/21/2015 through 9/23/2016 (Disq. ID: 3).
  - f. The ALJ took judicial notice of a copy of the Medical Examination Report Form, Form MCSA-5875 (Revised: 12/9/2015) (the "Form").
  - g. [REDACTED] offered a Medical Examination Report Form, dated 4/13/2015 for admission into evidence as CUST 1. The form was not admitted after the ALJ sustained the BMV's authenticity objection. The Form purportedly signed April 2015 was remitted on a form which was updated 12/9/2015. Additionally, the document was not certified and was missing several pages. (Form page 1).
  - h. A Medical Examination Report Form dated 9/20/2016 was admitted into evidence without objection as CUST 2.
  - i. The BMV accepted CUST 2 as valid proof of [REDACTED] medical examination report and medical certificate.
  - j. The BMV mailed each notice to [REDACTED] at [REDACTED] in [REDACTED] which is the legal address on her BMV record, as well as the return address [REDACTED] included on her communication to the BMV. BMV 1. BMV 2. BMV 4.
  - k. [REDACTED] CDL was disqualified for more than one (1) year, specifically August 21, 2015 through November 15, 2016. BMV 4.
6. The BMV incorporated by reference the previous Recommended Order in Case No. 14-CD-004 which affirmed the one-year disqualification of her CDL following conviction for Leaving the Scene of an Accident in 2014. 2014 Recommended Order, page 2.



7. The BMV incorporated by reference the Final Order in Case No. 14-CD-004 in which Commissioner Snemis affirmed the ALJ's recommended order supporting the CDL disqualification. 2014 Final Order, page 3.

#### CONCLUSIONS OF LAW

1. Indiana Code § 9-24-6.1-2 directs the BMV to develop and implement a commercial driver's license program to issue commercial driver's licenses...and regulate...commercial driver's license holders that complies with 49 CFR 383 through 49 CFR 399. I.C. § 9-24-6.1-2.
2. The BMV is authorized to adopt rules under IC 4-22-2-37.1 to implement statutory mandates. I.C. § 9-24-6.1-2(c).
3. Under 49 CFR § 391.41 an individual is prohibited from operating a CMV unless he or she is medically certified...and has submitted a current medical examiner's certificate that he or she is physically qualified to drive a CMV. 49 CFR § 391.41(a)(1)(i).
4. The BMV adopted Indiana Administrative Code provision 140 IAC 7-3-17.5(d) that orders "[A] person with a CDL that has been expired, disqualified, canceled, revoked, or invalidated for longer than one (1) year" to "pass all applicable knowledge exams and CDL skills tests prior to the issuance or renewal of a CDL." 140 IAC 7-3-17.5.
5. Indiana Code § 9-30-10-16 states that [S]ervice by the bureau of notice of the suspension or restriction of a person's driving privileges...by first class mail to the person at the last address shown for the person in the bureau's records establishes a rebuttable presumption that the person knows that the person's driving privileges are suspended or restricted.

#### ORDER

These facts and conclusions of law substantiate the ALJ's Recommended Order which affirmed the BMV to disqualify [REDACTED] CDL privileges and require that she pass all applicable knowledge tests and driving skills examinations prior to renewal.

Therefore, I AFFIRM the ALJ's Recommended Order. [REDACTED] is required to pass all applicable knowledge exams and CDL skills tests prior to the renewal of her CDL.

You may appeal this FINAL ORDER by filing a petition for judicial review within thirty (30) days as provided in I.C. §§ 4-21.5-3-27, 4-21.5-5-2 and 4-21.5-5-3.



SO ORDERED.

9 Feb 2017  
Date

Peter L. Lacy  
Peter L. Lacy, Commissioner  
Indiana Bureau of Motor Vehicles

Written notice of this order shall be provided to:

[REDACTED]  
Indiana Bureau of Motor Vehicles



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