Kansas Administrative Regulations

Kansas Corporation Commission

Article 4.—Motor Carriers of Persons and Property—Motor Carriers

82-4-6d. Waiver of physical requirements.

(a) Any person failing to meet the requirements of K.A.R. 82-4-3g may be permitted to drive a vehicle if the director finds that the granting of a waiver is consistent with highway safety and the public interest.

(b) The application for a waiver shall meet these requirements:

(1) The application shall be submitted jointly by the person seeking the waiver and by the motor carrier wishing to employ the person as a driver.

(2) The application shall be accompanied by the following:

(A) A copy of the driver applicant's motor vehicle driving record. Each change to this record occurring after submission of the application shall be immediately forwarded to the commission;

(B) reports of medical examinations, administered by a licensed medical examiner, that are satisfactory to the director; and

(C) letters of recommendation from at least two licensed medical examiners, written on their personalized or institutional letterhead, including their national provider identifier assigned by the national plan and provider enumeration system, and meeting the following requirements:

(i) The reports and letters of recommendation shall indicate the opinions of the licensed medical examiners regarding the ability of the driver to safely operate a commercial motor vehicle of the type to be driven;

(ii) letters of recommendation regarding vision impairments shall be provided by a licensed ophthalmologist or optometrist who treated the driver applicant;

(iii) letters of recommendation regarding diabetes shall be provided by an endocrinologist, diabetologist, or primary care physician who has treated the driver applicant;

(iv) letters of recommendation regarding limb impairment or amputation shall include a medical summary conducted by a board of qualified, or board-certified, physiatrists or orthopedic surgeons, preferably associated with a rehabilitation center; and

(v) letters of recommendation shall include a description of any prosthetic or orthopedic devices worn by the driver applicant.

(3) The application shall contain a description that is satisfactory to the director of the type, size, and special equipment of the vehicle or vehicles to be driven, the general area and type of roads to be traversed, the distances and time period contemplated, the nature of the commodities to be transported and the method of loading and securing them, and the experience of the applicant in driving vehicles of the type to be driven.

(A) If the applicant motor carrier is a corporation, the application shall be signed by a corporation officer and the driver applicant.

(B) If the applicant motor carrier is a limited liability company, the application shall be signed by a company officer and the driver applicant.

(C) If the applicant motor carrier is a limited liability partnership, the application shall be signed by at least one of the members of the partnership and the driver applicant.

(D) If the applicant motor carrier is a partnership, the application shall be signed by at least one of the members of the partnership and the driver applicant.

(E) If the applicant motor carrier is a sole proprietorship, the application shall be signed by the proprietor and the driver applicant.

(4) The application shall specify that both the person and the carrier will file periodic reports as required with the director. These reports shall contain complete and truthful information regarding the extent of the person's driving activity, any accidents in which the person was involved, and all suspensions or convictions in which the person is or has been involved.

(5) By completing the application, both the driver applicant and the motor carrier applicant shall be deemed to agree that upon grant of the waiver, they will fulfill all conditions of the waiver.

(c) Each driver applicant for a waiver for limb impairment or amputation shall complete a skill performance evaluation administered by a commission driver waiver program manager or a commission special investigator. The driver and motor carrier

applicants shall secure the vehicle and provide the necessary insurance for the skill performance evaluation. The skill performance evaluation may be waived if the driver applicant has otherwise met the regulatory requirements of 49 C.F.R. 391.49 as adopted in K.A.R. 82-4-3g.

(d) If the application is approved, a driver medical waiver card signed by the director and accompanied by a letter acknowledging approval shall be issued by the commission. While on duty, the driver medical waiver card shall be in the driver's possession. The motor carrier shall retain the accompanying letter in its files at its principal place of business during the period the driver is in the motor carrier's employment. The motor carrier shall retain this letter for 12 months after the termination of the driver's employment.

(e) If the application is denied, an order setting forth an explanation for the denial and specifying the procedure for appeal of the decision shall be issued by the commission.

(f) The waiver shall not exceed two years and may be renewable upon submission and approval of a new application.

(g) All intrastate vision waiver recipients shall be subject to the following conditions:

(1) Each driver shall be physically examined every year by the following individuals:

(A) A licensed ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard specified in 49 C.F.R. 391.41(b)(10) as adopted in K.A.R. 82-4-3g;

(B) a licensed endocrinologist, diabetologist, or primary care physician who attests that the glycated hemoglobin (HbA1C) is less than or equal to 8.0 mmol/mol; and

(C) a licensed medical practitioner who attests that the individual is otherwise physically qualified under the standards specified in 49 C.F.R. 391.41 as adopted in K.A.R. 82-4-3g.

(2) Each driver shall provide a copy of the ophthalmologist's or optometrist's report to the medical practitioner at the time of the annual medical examination.

(3) Each driver shall provide the motor carrier with a copy of the annual medical reports for retention in the motor carrier's driver qualification files.

(4) Each driver shall provide a copy of the annual medical reports to the commission.

(h) The waiver may be revoked by the director after the applicant has been given notice of the proposed revocation and has been given a reasonable opportunity to show cause, if any, why the revocation should not be made.

(i) Each motor carrier and driver shall notify the director within 72 hours upon any conviction of a moving violation or any revocation or suspension of driving privileges.

(j) Written notice shall be given to the director when any of the following occurs:

(1) A driver ceases employment with the "original employer" with whom the waiver was first granted.

(2) A change occurs in employment duties or functions.

(3) A change occurs in the driver's medical condition.

(k) Written notice shall be given by both the motor carrier and the driver within 10 days of any change in employment, duties, or functions, except in cases of termination of employment. Notice of termination of employment shall be given by both the motor carrier and the driver within 72 hours of termination.

(l) A waiver shall become void upon termination of employment from the motor carrier joint-applicant.

(m) Each application for renewal of waiver shall be submitted at least 60 days before the expiration date of the existing waiver.

(Authorized by and implementing K.S.A. 2011 Supp. 66-1,129; effective May 1, 1981; amended Sept. 16, 1991; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4, 1999; amended July 14, 2000; amended Nov. 14, 2011; amended Sept. 20, 2013.)

***** Authenticated Kansas Administrative Regulation *****