The Importance of Records-Keeping in Accordance With Federal Regulation

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A recent denial of a petition to the First Circuit of the United States Court of Appeals shows just how important it is for carriers to conduct business as accurately as practicable. An interstate trucking company petitioned the court to examine a determination from the Federal Motor Carrier Safety Administration (FMCSA) that its safety rating was unsatisfactory. Absent a successful appeal, corrective action will be needed to improve the safety rating to at least conditional before the carrier may return to the roads.

The findings of the unsatisfactory rating against the carrier stemmed from the FMSCA initiating a review after receiving two complaints from the FMCSA's National Consumer Complaint Database. Ultimately, investigators found three unsatisfactory violations, two of which were deemed critical, which automatically results in an unsatisfactory rating. The first violation found that the carrier had falsified a road test of one of its drivers. Additionally, investigators found that the carrier did not obtain several drivers' motor vehicle records in the prescribed time by the regulation nor did the carrier maintain every drivers' medical certifications. Finally, the FMCSA determined that the carrier failed to keep accurate time records for its drivers and did not install the electronic logging device as now called for by regulations. The carrier chose not to take corrective action to fix its rating, but rather sought an appeal through the FMCSA's appeal board. The appeal was rejected and the carrier petitioned the First Circuit.

In denying the petition, the court held that it “must uphold a decision of the FMCSA unless it is 'arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.'” The circuit accepted the findings of the investigation and denied the petition. Specifically, the court noted that while the carrier alleged that the investigators' finding of the failure to obtain and maintain the motor vehicle records was inappropriate, the carrier actually conceded that it did not acquire and maintain the records in accordance with regulations. Moreover, the carrier could not rely on a good faith exception as it failed to make any actual efforts to acquire the records and certify that the records for the drivers did not exist. Here, the records did exist but the carrier simply never sought them out.

For the finding of the absence of necessary medical documentation, the court held that the investigators' account of the events was supported by substantial evidence, despite the carrier's arguments to the contrary. The investigators never received the medical records they requested, and only were shown an unverified photo of some records. Because the carrier could not produce any evidence to support its position, the court did not find that the violation was in error.

Finally, the carrier asserted that it fell into the “short-haul exemption” for the time logging violation. However, it did not meet any of the conditions for the exemption, and the investigators demonstrated a significant pattern of noncompliance. For example, all sixty of the records examined by the investigators were proved to be inaccurate.

Records keeping in compliance with the regulations is vital. Inaccuracies are costly, but fixable and appealable. However, as the First Circuit's denial of the carrier's petition denial shows, there is no safe harbor for failing to even attempt to collect and maintain accurate records.

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