

motor vehicle up to the maximum 12-month period under § 391.45(e) until he or she provides the treating clinician with at least the preceding 3 months of electronic blood glucose self-monitoring records while being treated with insulin that are generated in accordance with paragraph (d) of this section.

(iv) The individual who does not provide the treating clinician with at least the preceding 3 months of electronic blood glucose self-monitoring records while being treated with insulin that are generated in accordance with paragraph (d) of this section is not physically qualified to operate a commercial motor vehicle for more than 3 months. If 3 months of compliant electronic blood glucose self-monitoring records are then provided by the individual to the treating clinician and the treating clinician completes a new Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5870, the medical examiner may issue a medical examiner's certificate that is valid for up to the maximum 12-month period allowed by § 391.45(e) and paragraph (c)(2)(iii) of this section.

(d) *Blood glucose self-monitoring records.* Individuals with diabetes mellitus treated with insulin for control must self-monitor blood glucose in accordance with the specific treatment plan prescribed by the treating clinician. Such individuals must maintain blood glucose records measured with an electronic glucometer that stores all readings, that records the date and time of readings, and from which data can be electronically downloaded. A printout of the electronic blood glucose records or the glucometer must be provided to the treating clinician at the time of any of the evaluations required by this section.

(e) *Severe hypoglycemic episodes.* (1) An individual with diabetes mellitus treated with insulin for control who experiences a severe hypoglycemic episode after being certified as physically qualified to operate a commercial motor vehicle is prohibited from operating a commercial motor vehicle, and must report such occurrence to and be evaluated by a treating clinician as soon as is reasonably practicable. A severe hypoglycemic episode is one that requires the assistance of others, or re-

sults in loss of consciousness, seizure, or coma. The prohibition on operating a commercial motor vehicle continues until a treating clinician:

(i) Has determined that the cause of the severe hypoglycemic episode has been addressed;

(ii) Has determined that the individual is maintaining a stable insulin regimen and proper control of his or her diabetes mellitus; and

(iii) Completes a new Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5870.

(2) The individual must retain the Form and provide it to the medical examiner at the individual's next medical examination.

[83 FR 47520, Sept. 19, 2018, as amended at 84 FR 51434, Sept. 30, 2019]

#### **§ 391.47 Resolution of conflicts of medical evaluation.**

(a) *Applications.* Applications for determination of a driver's medical qualifications under standards in this part will only be accepted if they conform to the requirements of this section.

(b) *Content.* Applications will be accepted for consideration only if the following conditions are met.

(1) The application must contain the name and address of the driver, motor carrier, and all physicians involved in the proceeding.

(2) The applicant must submit proof that there is a disagreement between the physician for the driver and the physician for the motor carrier concerning the driver's qualifications.

(3) The applicant must submit a copy of an opinion and report including results of all tests of an impartial medical specialist in the field in which the medical conflict arose. The specialist should be one agreed to by the motor carrier and the driver.

(i) In cases where the driver refuses to agree on a specialist and the applicant is the motor carrier, the applicant must submit a statement of his/her agreement to submit the matter to an impartial medical specialist in the field, proof that he/she has requested the driver to submit to the medical specialist, and the response, if any, of the driver to his/her request.

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(ii) In cases where the motor carrier refuses to agree on a medical specialist, the driver must submit an opinion and test results of an impartial medical specialist, proof that he/she has requested the motor carrier to agree to submit the matter to the medical specialist and the response, if any, of the motor carrier to his/her request.

(4) The applicant must include a statement explaining in detail why the decision of the medical specialist identified in paragraph (b)(3) of this section, is unacceptable.

(5) The applicant must submit proof that the medical specialist mentioned in paragraph (b)(3) of this section was provided, prior to his/her determination, the medical history of the driver and an agreed-upon statement of the work the driver performs.

(6) The applicant must submit the medical history and statement of work provided to the medical specialist under paragraph (b)(5) of this section.

(7) The applicant must submit all medical records and statements of the physicians who have given opinions on the driver's qualifications.

(8) The applicant must submit a description and a copy of all written and documentary evidence upon which the party making application relies in the form set out in 49 CFR 386.37.

(9) The application must be accompanied by a statement of the driver that he/she intends to drive in interstate commerce not subject to the commercial zone exemption or a statement of the carrier that he/she has used or intends to use the driver for such work.

(10) The applicant must submit three copies of the application and all records.

(c) *Information.* FMCSA (MC-PS) may request further information from the applicant if he/she determines that a decision cannot be made on the evidence submitted. If the applicant fails to submit the information requested, FMCSA may refuse to issue a determination.

(d)(1) *Action.* Upon receiving a satisfactory application FMCSA (MC-PS) shall notify the parties (the driver, motor carrier, or any other interested party) that the application has been accepted and that a determination will

be made. A copy of all evidence received shall be attached to the notice.

(2) *Reply.* Any party may submit a reply to the notification within 15 days after service. Such reply must be accompanied by all evidence the party wants FMCSA (MC-PS) to consider in making his/her determination. Evidence submitted should include all medical records and test results upon which the party relies.

(3) *Parties.* A party for the purposes of this section includes the motor carrier and the driver, or anyone else submitting an application.

(e) *Petitions to review, burden of proof.* The driver or motor carrier may petition to review the FMCSA's determination. Such petition must be submitted in accordance with §386.13(a) of this chapter. The burden of proof in such a proceeding is on the petitioner.

(f) *Status of driver.* Once an application is submitted to FMCSA (MC-PS), the driver shall be deemed disqualified until such time as FMCSA (MC-PS) makes a determination, or until FMCSA (MC-PS) orders otherwise.

[42 FR 18081, Apr. 5, 1977, as amended at 42 FR 53966, Oct. 4, 1977; 60 FR 38746, July 28, 1995; 66 FR 49874, Oct. 1, 2001; 78 FR 58483, Sept. 24, 2013; 80 FR 59075, Oct. 1, 2015; 86 FR 57074, Oct. 14, 2021]

### § 391.49 Alternative physical qualification standards for the loss or impairment of limbs.

(a) A person who is not physically qualified to drive under §391.41(b)(1) or (2) and who is otherwise qualified to drive a commercial motor vehicle, may drive a commercial motor vehicle if FMCSA has granted a Skill Performance Evaluation (SPE) Certificate to that person.

(b)(1) *Application.* A letter of application for an SPE certificate may be submitted jointly by the person (driver applicant) who seeks an SPE certificate and by the motor carrier that will employ the driver applicant, if the application is accepted.

(2) *Application address.* The application must be addressed to the SPE Certificate Program at the applicable FMCSA service center for the State in which the co-applicant motor carrier's principal place of business is located. The address of each, and the States