



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

February 3, 2023

Michael O. Foster
Director
Motor Vehicle
Service Division
202-842-4240 (Office)
202-842-8517 (Fax)

National Executive Board

Mark Dimondstein
President

Debby Szeredy
Executive Vice President

Elizabeth "Liz" Powell
Secretary-Treasurer

Charlie Cash
Director, Industrial Relations

Lamont Brooks
Director, Clerk Division

Idowu Balogun
Director, Maintenance Division

Michael O. Foster
Director, MVS Division

Arrion Brown
Director, Support Services Division

Sharyn M. Stone
Coordinator, Central Region

A.J. Jones
Coordinator, Eastern Region

Tiffany Foster
Coordinator, Northeast Region

Yared Wonde
Coordinator, Southern Region

Omar M. Gonzalez
Coordinator, Western Region

Initiate National Dispute

Sent Via Email and First Class Mail

Mr. Thomas Blum
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

RE: APWU No. HQTV20230046

Dear Mr. Blum:

In accordance with the provisions of Article 15, Section 2 (Step 4), and Section 4. D of the National Agreement, the APWU is initiating a Step 4 dispute concerning the Postal Service's requirement that employees with Commercial Driver Licenses (CDLs) sign release agreements authorizing the disclosure of their personal medical information when Department of Transportation (DOT) Drug and Alcohol (D&A) tests are administered. This requirement violates prior Step 4 settlement agreements with the APWU – the October 23, 2019 Settlement Agreement in case number Q15V-4Q-C 18046276/HQTV20170529 ("October 23 Agreement"), the May 15, 2020 Settlement Agreement in case number Q10V-4Q-C 16367308/ HQTV20160209 ("May 15 Agreement"), and the September 21, 2021 Settlement Agreement in case number Q18V-4Q-C 21001475/HQTV20200455 ("September 21, 2021 Agreement") – as well as Articles 5 and 19 of the National Agreement.

This dispute concerns the Postal Service's administration of (DOT) and Federal Motor Carrier Safety Administration (FMCSA) policies regarding (D&A) testing for employees holding CDLs as a requirement of their position.

Since 1995, the Postal Service has voluntarily participated in certain components of the DOT and FMCSA regulations pertaining to employees with CDLs despite being exempt from these regulations under 49 CFR 390.3(f)(2). The Postal Service's administration of these components is a mandatory subject of bargaining. The parties have long agreed that Postal Service rules and policies will follow, mirror, or parallel DOT and FMCSA regulations.

Recently, the Union has received information that the Postal Service, through Concentra, is requiring postal employees to sign a release of information that allows access to the employees' personal health records and information during D&A testing. If an employee refuses to sign this medical release form they have

not been allowed to take the DOT D&A test, which is considered a refusal (positive) test.

This requirement imposed by the Postal Service and Concentra to sign a release of personal medical information is inconsistent with DOT and FMCSA regulations and therefore violates the National Agreement and the Parties' previous Step 4 settlement agreements. The Parties previously resolved in the October 23 Agreement, the May 15 Agreement, and the September 21 Agreement that CDL employees will not be required to sign a release of medical information agreements during the DOT physicals because such releases are not required by DOT and FMCSA regulations. Now the Postal Service is requiring these releases during Drug and Alcohol testing, even though such a requirement is also inconsistent with DOT and FMCSA regulations.

The interpretive issue to be decided is whether the Postal Service has violated the October 23 Agreement, the May 15 Agreement, the September 21 Agreement, and Article 5 and Article 19 of the National Agreement by permitting or authorizing its agent Concentra to compel drivers to sign release agreements during DOT D&A testing,

The APWU demands that the Postal Service, Concentra, and all their assigns, subcontractors, and subsidiaries cease and desist from compelling drivers to sign any release agreements.

Please contact me to discuss this important issue at a mutually scheduled time.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael O. Foster". The signature is fluid and cursive, with the first name "Michael" and last name "Foster" being clearly legible.

Michael O. Foster, Director
Motor Vehicle Service Division

Mr. Michael O. Foster
Director, Motor Vehicle Service
American Postal Workers Union, AFL-CIO
1300 L Street, NW
Washington DC 20005

RE: Q18V-4Q-C 21001475/HQTV20200455
Class Action
Washington, DC 20260-4100

Dear Mike:

Recently our representatives met to discuss the above captioned grievance at Step 4 of the grievance arbitration procedure. The issue presented in this case is whether the Postal Service has violated the October 23, 2019 Settlement Agreement in case number Q15V-4Q-C 18046276/HQTV20170529 ("October 23 Agreement"), the May 15, 2020 Settlement Agreement in case number Q10V-4Q-C 16367308/ HQTV20160209 ("May 15 Agreement"), and Article 5 and Article 19 of the National Agreement by permitting or authorizing its contractor, Caduceus USA Medical Services ("Caduceus"), to:

- 1) compel employees holding a commercial driver's license (CDL) as a requirement of their position (hereafter referred to as "employees") to sign medical record release forms at their mandatory Department of Transportation (DOT) physical examinations;
- 2) subject employees to additional levels of medical review even after a medical examiner finds them medically fit;
- 3) withhold medical examiner certificates from employees; and,
- 4) require interstate medical examiner certificates in states where they are not required.

The parties agree to resolve this case based on the following understanding:

The Postal Service follows Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations regarding the administration of physicals for employees holding a CDL as a requirement of their position. The Postal Service has used the term "parallel" or "follow"; the parties understand that this does not represent a change in policy.

The Parties agree to abide by the terms of the October 23 Agreement. Employees will not be required to sign a medical record release to receive a DOT physical. The FMCSA does not require the medical examiner to provide a copy of the medical examination report to the employer.

In accordance with the October 23 Agreement, upon completion of the DOT physical by a certified medical examiner, if the employee is found medically fit, no further review will be required.

The Postal Service will require DOT/FMCSA certified examining physicians to provide employees the determination of their exam upon completion and to issue a new medical examiner certificate to the employees if they are medically cleared to drive.

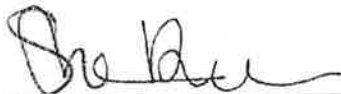
In accordance with the May 15 Agreement, "USPS drivers holding a CDL are required to self-certify to their state that they operate or expect to operate in 'excepted interstate commerce' in accordance with 49 CFR part 383.71(b)(1)(ii) which will result in PVS drivers being exempt from the interstate requirements."

Each state has its own procedure for completing the self-certification process, so USPS applicants/employees with an intrastate CDL should be directed to their local Department of Motor Vehicles or their state's equivalent for appropriate guidance. Additionally, these individuals are still bound by their state's medical requirements regarding intrastate CDL licensing. The Postal Service will not require DOT physicals where they are not required under the applicable state intrastate standards provided the MVS employee has completed the self-certification process as outlined above.

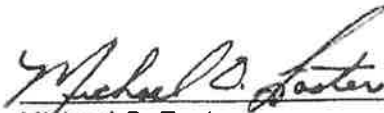
The Parties agree and acknowledge the Postal Service's commitment to follow FMCSA and DOT regulations for CDLs and to not promulgate policies that violate the Step 4 settlements in Cases No. Q15V-4Q-C18046276/HQTV20170529 (October 23, 2019) and Q10V-4Q-C16367308/HQTV20160209 (May 15, 2020) or this Settlement Agreement.

The Parties further agree that any future changes to the Postal Service administration of the DOT and FMCSA regulations which directly relate to wages, hours, or working conditions will be done in accordance with Article 19 of the National Agreement.

The parties will meet at the national level at least once every six months, or at either party's request, for the purpose of discussing any issue or changes related to the DOT standards that impact employees.



Shannon Richardson
Director, Labor Relations
Contract Administration (APWU)
United States Postal Service



Michael O. Foster
Director, Motor Vehicle Service
American Postal Workers Union,
AFL-CIO

Date: September 21, 2021

Mr. Michael O. Foster
Director, Motor Vehicle Service Division
American Postal Workers Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005-4128

Re: Q10V-4Q-C 16367308/HQTV20160209
Class Action
Washington DC 20260-4100

Dear Mike:

The parties met at Step 4 of the grievance-arbitration process to discuss the above referenced grievance. The dispute was initiated at Step 4 by the American Postal Workers Union (APWU). Time limits were extended by mutual consent.

The issue presented by the APWU is whether the United States Postal Service (USPS) implemented a new policy on April 1, 2016 regarding Department of Transportation (DOT) medical examinations based on new DOT standards. The components of this policy required Postal Vehicle Service (PVS) operators to be tested at the higher standard of interstate examination if the mail crosses state lines or boundaries, instead of the intrastate standard.

Federal Motor Carrier Safety Regulations normally require drivers who engage in interstate commerce to possess an interstate CDL. After self-certification to their state, as employees of the United States Postal Service, PVS drivers are exempt from the DOT interstate requirement while in the performance of their duties.

The parties agree to the USPS policy and instructions to employees, as follows:


USPS drivers holding a CDL are required to self-certify to their state that they operate or expect to operate in "excepted interstate commerce" in accordance with 49 CFR part 383.71(b)(1)(ii) which will result in PVS drivers being exempt from the interstate requirements. Each state has its own procedure for completing the self-certification process, so USPS applicants/employees with an intrastate CDL should be directed to their local Department of Motor Vehicles or their state's equivalent for appropriate guidance. Additionally, these individuals are still bound by their state's medical requirements regarding intrastate CDL licensing.

A USPS driver excepted from the DOT interstate requirement, after self-certification as outlined above, will still be allowed to cross state lines in the course of performing their driving duties with the USPS.


The parties further agree the Postal Service will instruct the medical contract unit performing the Department of Transportation (DOT) medical examinations that all USPS drivers holding a CDL are excluded from the DOT interstate requirement, and the only CDL requirement for Motor Vehicle Service (MVS) positions is an intrastate CDL, provided the driver has self-certified to their state.

The parties agree that any future changes to the above policy which directly relate to wages, hours or working conditions will be done in accordance with Article 19 of the National Agreement.

Sincerely,


Rickey R. Dean
Manager
Contract Administration (APWU)
U.S. Postal Service

Date 05/15/2020


Michael O. Foster
Director, Motor Vehicle Service
American Postal Workers
Union, AFL-CIO

Date 05/15/2020

Michael O. Foster
Director, MVS Division
American Postal Workers Union, AFL-CIO
1300 L Street, NW
Washington DC 20005-4128

Date: October 23, 2019

RE: Q15V-4Q-C 18046276/HQTV20170529
Class Action
Washington DC 20260-4100

Dear Mike:

Recently our representatives met to discuss the above captioned grievance at Step 4 of the grievance-arbitration procedure. The issue presented in this case concerns the USPS administration of the Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) policy regarding annual physicals for employees holding a commercial driver's license (CDL) as a requirement of their position.

The parties agree to resolve this case based on the following understanding:

The Postal Service will follow Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations regarding the administration of CDLs. Postal employees whose position requires a CDL must maintain their medical certification in accordance with DOT and the FMCSA. Where previous Postal Service correspondence has used the term "parallel", the parties understand that this does not represent a change in policy.

When required, medical exams related to an employee's CDL will be scheduled with a DOT/FMCSA certified examiner at no cost to the employee. Any additional medical testing and/or exams required to determine an employee's suitability in connection with a DOT/FMCSA medical exam, will be paid for by the Postal Service until an initial determination is made. If the employee is found medically unfit, the employee will be responsible for the cost of any treatment and/or medical test or appointments he/she obtains, including medical information used to dispute the determination. If the employee is found medically fit by the certified examiner there is no further review necessary.

An employee may appeal an adverse result of a certifying examination as outlined in the Joint Contract Interpretation Manual (JCIM), Article 39.

The FMCSA does not require the medical examiner to provide a copy of the medical examination report to the employer, therefore employees will not be required to sign a release for medical records. If the Postal Service requires a copy of the medical examination long form from the medical examiner after completion of the medical exam, it will be done in accordance with FMCSA regulations. The release will only cover the DOT/FMCSA required medical exam.

An employee's Social Security Number will not be required during employees DOT/FMCSA medical exam process.


The parties agree that any future changes to the USPS administration of the DOT and FMCSA regulations regarding annual physicals which directly relate to wages, hours or working conditions will be done in accordance with Article 19 of the National Agreement. The Postal Service will provide periodic service talks in all installations that employ Postal Vehicle Service (PVS) employees that will include current medical standards for DOT/FMCSA required medical exams. Changes to the current DOT/FMCSA required medical exams will also be posted on LiteBlue™. The Union will be provided a copy of such service talks when issued. In addition, the parties will meet at the national level at least once every six months, or at either party's request, for the purpose of discussing any issues or changes related to the DOT medical standards that impact driver eligibility.

Any prior instructions issued to the field which are in conflict with this settlement will be rescinded. This agreement does not alter the provisions of the Collective Bargaining agreement. This agreement also settles and closes cases Q10V-4Q-C 15079086/HQTV20150066, Q10V-4Q-C 15080275/A19V20150063, Q10V-4Q-C 15275543/A19V20150773, Q10V-4Q-C 16367381/HQTV20160198, and Q15V-4Q-C 19246730/HQTV20190139.

Sincerely,



Rickey R. Dean
Manager, Contract Administration (APWU)
United States Postal Service



Michael O. Foster
Director, MVS Division
American Postal Workers Union, AFL-CIO