

GAO

Report to the Chairman, Subcommittee
on Surface Transportation and Merchant
Marine Infrastructure, Safety, and
Security, Committee on Commerce,
Science, and Transportation, U.S. Senate

November 2012

HIGHWAY SAFETY

Selected Cases of Commercial Drivers with Potentially Disqualifying Impairments



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Highlights of [GAO-13-13](#), a report to the Chairman, Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security, Committee on Commerce, Science, and Transportation, U.S. Senate

Why GAO Did This Study

Commercial vehicles such as tractor trailers and school buses must be operated by skilled drivers who are mentally and physically capable of performing their jobs safely. Prior GAO work has shown weaknesses in DOT's oversight of CDLs, such as inadequate medical certifications for commercial drivers, potentially putting the public at risk.

GAO was asked to update its work on impaired commercial drivers. This report describes (1) key controls designed to prevent medically unfit or impaired commercial drivers from operating commercial vehicles and (2) examples of commercial drivers with potentially disqualifying impairments related to epilepsy, drugs, or alcohol.

To identify key controls, GAO reviewed FMCSA policies and regulations, and interviewed officials. Cases were identified on the basis of FMCSA roadside-inspection data, DOT's Commercial Driver License Information System (CDLIS), a national database of all commercial drivers, and SSA disability insurance files. From this analysis, GAO identified commercial drivers who were driving with an epilepsy diagnosis. GAO also randomly selected 100 individuals to determine whether the driver was receiving SSA disability benefits when the state issued or renewed the driver's CDL. These cases cannot be generalized beyond those presented.

GAO provided a draft of this report to SSA and DOT. SSA did not have any comments. DOT provided technical comments, which have been addressed in the report, as appropriate.

View [GAO-13-13](#). For more information, contact Cathleen A. Berrick at (202) 512-6722 or BerrickC@gao.gov.

HIGHWAY SAFETY

Selected Cases of Commercial Drivers with Potentially Disqualifying Impairments

What GAO Found

The Federal Motor Carrier Safety Administration (FMCSA), part of the Department of Transportation (DOT), has established a number of key controls designed to prevent commercial driver's license (CDL) holders from operating commercial vehicles while impaired. First, drivers are required to undergo regular medical exams by a certified medical examiner. Second, employers are responsible for drug testing employees at various points of employment. Third, state and federal roadside-inspection programs are in place to identify impaired drivers and perform other safety checks. If these key controls are operating effectively, they will help identify commercial drivers who are not capable of driving safely. However, GAO's prior work has found that these controls were vulnerable to abuse or manipulation. The Moving Ahead for Progress in the 21st Century Act, enacted in July 2012, will require additional measures to ensure that disqualified drivers do not operate commercial vehicles, and could help address some of these vulnerabilities. For example, the law requires DOT to implement a national clearinghouse of commercial-driver controlled-substance and alcohol test results by July 2014. DOT has also taken some actions, and now requires CDL holders to provide a copy of their medical certificates to the State licensing agency.

Matching CDL holders with Social Security Administration (SSA) disability files produced 204 commercial drivers who drove a commercial vehicle as recently as 2011 despite having epilepsy, a disqualifying medical condition characterized by sudden seizures and unconsciousness. Thirty-one of these drivers were involved in accidents, demonstrating the threat to public safety posed by medically impaired drivers. GAO also identified 23 cases where state licensing agencies issued or renewed CDLs for drivers after they were, according to SSA records, diagnosed with epilepsy or had drug or alcohol dependence noted, which could also disqualify them from driving under DOT regulations (see examples below).

Examples of Commercial Drivers with Potential Driving Impairments

State	Potential driving impairment	Details
MS	Epilepsy, seizures, blackouts, poor vision, substance abuse	Holding an active CDL, this individual was approved for SSA disability benefits in June 2007. Although he informed SSA that he could not drive because of his condition, he renewed his CDL in Mississippi in 2008. In 2009, medical professionals informed him that he should not be driving and that it was unsafe to hold a job. But again, he successfully renewed his CDL in August 2010. DOT records show that he was involved in a crash with a commercial vehicle in 2010.
VA	Psychosis, alcohol abuse, drug dependence	This driver began receiving SSA disability benefits in 2009 for psychosis. Alcohol abuse and drug dependence were also noted in SSA records. According to SSA files, a physician stated in 2009 the driver was unable to participate in employment or training activities due to paranoid schizophrenia. However, the driver later obtained a CDL. In October 2010, he refused to submit to an alcohol test while operating a commercial motor vehicle, which led to a driving-while-intoxicated conviction and permanent CDL suspension in February 2011.

Source: GAO

However, because DOT did not require state licensing agencies to maintain drivers' medical certifications at the time of GAO's review, it is unlikely that states knew of the drivers' conditions. In fact, they were unable to provide medical certifications for any of the 23 individuals. States are now required to electronically store medical certificates for new and renewing CDL applicants and will be required to electronically maintain this information for all CDL holders by January 2014. Doing so could help prevent ineligible drivers from obtaining or renewing CDLs in the future.

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Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

November 30, 2012

The Honorable Frank R. Lautenberg
Chairman
Subcommittee on Surface Transportation and Merchant Marine
Infrastructure, Safety, and Security
Committee on Commerce, Science, and Transportation
United States Senate

Dear Mr. Chairman:

Millions of Americans hold commercial driver's licenses (CDL), allowing them to operate tractor trailers, school buses, cargo vans, or other commercial vehicles on our nation's roads and highways. The Federal Motor Carrier Safety Administration (FMCSA) establishes regulations and oversees the safe operation of commercial vehicles, including preventing crashes, injuries, and fatalities. FMCSA partners with states to conduct roadside inspections and oversee CDLs in adherence to minimum federal requirements and guidance established by the Motor Carrier Safety Improvement Act of 1999.

Commercial vehicles—large, and sometimes transporting hazardous materials—must be operated by skilled drivers who are mentally and physically capable of performing their jobs safely—any impairment can pose significant dangers to the public. Therefore, FMCSA regulations require that commercial drivers be tested for drug and alcohol use and undergo medical fitness certifications. Drug and alcohol testing is required before employment, randomly while employed, and after an accident where the CDL driver was at fault. Physical examinations, including vision and hearing tests and a review of the driver's medical history, must be conducted by a medical examiner at least every 2 years.

Over the past decade, the National Transportation Safety Board (NTSB) and others have reported gaps in enforcing drug and alcohol testing and medical fitness of commercial drivers. For example, the NTSB reported that commercial drivers could job-hop from one employer to another to hide their positive drug tests and that self-reporting positive drug test results would not effectively identify problem drivers. To address some of these gaps, in July 2012 the Moving Ahead for Progress in the 21st

Century Act (MAP-21) was enacted into law,¹ which will require the implementation of additional measures to ensure that the highest-risk drivers do not operate commercial vehicles. For example, the law requires the Department of Transportation (DOT) to implement a national clearinghouse of commercial driver controlled-substance and alcohol test results by July 2014 and a national registry of medical examiners qualified to certify commercial driver fitness by July 2013.

Given that new requirements are not due to be implemented until 2013, you asked us to describe (1) current key controls designed to prevent medically unfit or impaired commercial drivers from operating commercial vehicles and (2) examples of commercial drivers with potentially disqualifying impairments related to epilepsy, drugs, or alcohol.

To describe key controls, we reviewed FMCSA's policies and regulations as well as legislation related to medical requirements and drug and alcohol testing for commercial drivers. We also reviewed prior GAO reports and other studies concerning the enforcement of drug and alcohol testing and medical fitness of commercial drivers. Further, we interviewed FMCSA officials about agency plans to improve the identification of these drivers. To examine cases of commercial drivers with potentially disqualifying impairments related to epilepsy, drugs, or alcohol, we matched data from the Social Security Administration's (SSA) disability insurance database as of December 2010 to the Commercial Driver License Information System (CDLIS) as of 2011² and crash and inspection data from the FMCSA's Motor Carrier Management Inspection System (MCMIS). Because the number of cases examined was not drawn from a statistical sample, none of our case selections provide information that can be generalized beyond the specific cases provided.

To identify commercial drivers who had been involved in a crash or roadside inspection involving a commercial motor vehicle who had an impairment based on the severity of their epilepsy, we matched crash and inspection data from MCMIS with individuals who were receiving SSA disability benefits on the basis of an epilepsy impairment. We randomly

¹Pub. Law No. 112-141 (July 6, 2012).

²DOT is the parent agency of FMCSA.

selected nine of these drivers for more in-depth review.³ We used the CDLIS and SSA data to identify examples of individuals who renewed or obtained a new CDL with medical impairments related to epilepsy, drugs, or alcohol. We matched the Social Security number of CDL holders from CDLIS to individuals in the Social Security Administration (SSA) disability insurance files who were eligible for disability benefits. From this match, we extracted 13,281 individuals who had a primary or secondary impairment for epilepsy or where drug or alcohol dependence was noted in SSA's electronic file. However, CDLIS includes drivers who have inactive CDLs, so we randomly made a nongeneralizable selection of 100 individuals to identify drivers who had an active CDL at the time SSA determined their disability began. For these 100 cases, we obtained and reviewed individuals' state driving records and SSA disability records, and requested CDL medical-examination reports and certificates from the respective states.

We assessed the reliability of the data file that FMCSA and SSA provided by performing electronic data testing for errors in accuracy and completeness, reviewing existing information about the data and the system that produced the data, and interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of this report.

We conducted this performance audit from December 2010 to November 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

FMCSA establishes regulations for the physical and medical qualifications of CDL holders, develops standards to test and license commercial motor vehicle drivers, and enforces commercial motor vehicle safety regulations. Commercial drivers must be 21 years old to operate in interstate commerce, read English, have successfully completed a

³We originally selected a sample of 10 drivers, but one of the sampled cases did not receive SSA benefits and was subsequently removed from our review.

driver's road test, be physically qualified to drive if operating in nonexcepted interstate commerce, and hold a current and valid CDL.⁴ Commercial drivers in intrastate commerce may operate commercial vehicles at 18 years old, if permitted by state law. They must also have no mental disease or psychiatric disorder that would interfere with their ability to safely drive a commercial vehicle, not use a controlled substance or habit-forming drug, and have no current clinical diagnosis of alcoholism. A commercial driver may use a legal non-Schedule I⁵ drug or substance if the drug or substance is prescribed by a licensed medical practitioner who is familiar with the driver's medical history, and has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

Violations for impaired drivers can result in a range of penalties against CDL holders. For example, a first conviction of driving under the influence of alcohol or a controlled substance, regardless of whether it occurs in a commercial or personal vehicle, results in immediate CDL suspension by the issuing state for 12 months. A second results in permanent suspension. Licensing states are required to maintain driver records showing convictions for disqualifying federal violations and are to disqualify commercial drivers convicted of those violations while driving a commercial vehicle. Information on CDL holders must be exchanged among states through a nationwide system. The CDLIS is a nationwide computer system that, among other things, enables state driver-licensing agencies to ensure that each commercial driver has only one driver's license and one complete driver record. State driver-licensing agencies use CDLIS to complete various procedures, including transmitting out-of-state convictions and transferring the driver record when a commercial driver's license holder moves to another state.

⁴Most commercial drivers operating in interstate commerce are nonexcepted drivers. Excepted drivers include those who operate a commercial vehicle in interstate commerce: (1) as a federal, state, or local government employee; (2) to transport human corpses or sick and injured persons; (3) to respond during emergencies or other related activities while operating a fire truck or other rescue vehicles; (4) to transport migrant workers in most circumstances; (5) to transport propane heating fuel when responding to an emergency condition and to respond to a pipeline emergency condition; and (6) in certain instances, to transport farm machinery and supplies.

⁵Schedule I substances have a high potential for abuse, and have no currently accepted medical use in treatment in the United States. Examples include heroin, lysergic acid diethylamide (LSD), peyote, methaqualone, and 3,4-methylenedioxymethamphetamine ("ecstasy").

FMCSA Controls for Commercial Drivers Include Medical Exams, Drug and Alcohol Testing, and Roadside Inspections

FMCSA has established a number of key controls that are designed to prevent CDL holders from operating commercial vehicles while impaired that generally cover three areas. First, drivers are required to undergo regular medical exams by a certified medical examiner to determine if a driver is physically qualified to operate a commercial vehicle. Second, employers are responsible for drug testing employees at various points of employment. Independent self-employed commercial vehicle operators are required to meet drug testing requirements by being enrolled in a random testing pool that includes other drivers and is managed by a consortium or third-party administrator that provides drug or alcohol testing services to DOT-regulated employers. Third, state and federal roadside-inspection programs are intended to identify impaired drivers and perform other safety checks. While our review did not evaluate whether these controls were working as intended, in prior work we have found that these controls were vulnerable to abuse or manipulation.⁶ With the enhanced statutory authority and direction provided by the MAP-21 Act, DOT may be able to address some of these vulnerabilities. DOT is required to issue implementing regulations by July 2014.

Medical Exams Are Used to Determine Drivers' Physical Fitness to Operate a Commercial Motor Vehicle

FMCSA has established regulatory standards that require interstate commercial drivers to be examined and certified by a licensed medical examiner. The exams assess whether a driver meets minimum physical qualifications before obtaining a CDL. The exams are generally repeated at least every 2 years. Medical examiners must review the driver's medical history; perform vision, hearing, blood pressure, and other such tests; and conduct a physical exam. The medical examiner must also determine that the driver does not use any drugs or controlled substances identified as a Schedule I drug. A CDL driver cannot use any non-Schedule I drug or controlled substance except when the drug or substance has been prescribed by a licensed medical provider who is familiar with the driver's medical history and has determined that its use would not adversely affect the driver's ability to operate a commercial vehicle. According to DOT, medical examiners do not give drivers drug or alcohol tests and largely base determinations on the physical examination and driver identification of prescribed medications, alcohol, or illegal drug use information included in the examination form.

⁶GAO, *Certification Process for Drivers with Serious Medical Conditions*, [GAO-08-826](#) (Washington, D.C.: June 30, 2008); *Examples of Job Hopping by Commercial Drivers after Failing Drug Tests*, [GAO-08-829R](#) (Washington, D.C.: June 30, 2008).

If a medical examiner deems a driver fit to drive, the examiner must sign and date a medical certificate. The medical examiner also keeps a paper copy of the signed certificate and may provide another copy to the driver's employer if requested. As of January 30, 2012, individuals renewing or applying for a CDL must submit a copy of their current medical certificate to their state licensing agency, making state licensing agencies responsible for ensuring that drivers have current medical certificates on file.⁷ FMCSA does not maintain a copy or record of the medical certificates.

Drivers with serious medical conditions can still meet DOT medical fitness requirements to safely operate a commercial vehicle and hold CDLs. Because medical determinations rely on subjective factors and patient self-reporting, it is not possible to systematically determine whether these drivers had disqualifying medical conditions. According to DOT, medical examiners are not required to review nor do they have access to SSA disability databases. Nonetheless, we issued a report in 2008 showing that 563,000 CDL holders were also eligible for full federal medical disability benefits.⁸ This represented over 4 percent of all CDL holders in DOT's CDLIS database. In our 2008 report, we detailed 15 examples of CDL holders receiving full disability benefits who did not undergo a careful medical evaluation required by FMCSA regulations. While not generalizable to all CDL holders, these examples included instances of forged medical certificates, false assertions on self-certifications, and medical examiners not following federal requirements in the determination of medical fitness for commercial drivers. The MAP-21 Act requires that DOT set up a national registry of medical examiners and seeks to ensure that medical certificates are provided to DOT and state licensing agencies electronically. According to DOT, FMCSA has taken regulatory steps to improve medical reviews and medical certification processes, including:⁹

- In December 2008, FMCSA published a final rule concerning the merger of the medical certification and CDL issuance and renewal process. The rule requires that drivers provide a copy of their medical certificates to the State licensing agency and that the State include

⁷49 C.F.R. § 383.71(h)(1).

⁸GAO, *Certification Process for Drivers with Serious Medical Conditions*, [GAO-08-826](#) (Washington, D.C.: June 30, 2008).

⁹ 73 Fed. Reg. 73096 (Dec 1, 2008).

the medical certification information on the electronic driving record. The medical certificate information could then be reviewed during a roadside inspection via a check of the driving record, such as through the CDLIS. In the instance of a driver who fails to renew his medical certificate on time, the States are required to downgrade the individual's CDL so that he must not operate a commercial motor vehicle until a valid medical certificate has been submitted to the State licensing agency.

- In April 2012, FMCSA published a final rule establishing a National Registry of Certified Medical Examiners.¹⁰ The 2012 final rule provides requirements for all healthcare professionals responsible for issuing medical certificates for interstate truck and bus drivers to complete a training course on the Federal physical qualifications rules and to pass an examination to assess the examiners ability to apply the rules, and advisory criteria in a consistent manner when making the determination whether a driver meets the qualification standards.
- FMCSA has announced its plans to initiate a new rulemaking that would enable the agency to require medical examiners on the National Registry to submit to the agency the medical certificate information on each individual who applies for a medical certificate. The agency would then have the ability to transmit to the state driver licensing agency the medical certificate. This process will significantly decrease the likelihood of drivers being able to falsify medical certificates.

When implemented, these requirements could help improve the control vulnerabilities identified in our prior work by ensuring that proper medical reviews are conducted and medical certificates are prepared by qualified medical examiners. However, additional work would need to be conducted to assess their effectiveness.

Drug and Alcohol Testing by Employers Is Designed to Identify Unqualified Drivers

FMCSA regulations also require CDL holders to undergo periodic drug and alcohol testing to identify unqualified drivers. Employers must test all CDL holders during preemployment screening; upon reasonable suspicion; randomly on a specific percentage; after a serious accident in which the driver was issued a traffic citation; and for all fatal accidents. In

¹⁰ 77 Fed. Reg. 24104 (April 20, 2012).

addition, according to DOT, employers must request a wide range of information from drivers' previous employers as disclosed by the driver on his or her application for employment and pertaining to the driver's history in the DOT drug and alcohol testing program.

Each year, employers are also required to conduct random alcohol tests for at least 10 percent of their average number of driver positions, and random controlled substance or drug testing for at least 50 percent of their average number of driver positions. According to DOT, FMCSA may increase or decrease these percentages on the basis of self-reported drug and alcohol testing information from a sample of 2,000 employers.

FMCSA regulations follow Department of Health and Human Services (HHS) employee drug testing requirements according to the Omnibus Transportation Employee Testing Act of 1991.¹¹ They use urine tests covering five categories of drugs: marijuana, cocaine, amphetamines (dextroamphetamine, adderall), opiates (heroin, morphine, codeine), and phencyclidine (PCP). Each year, employers must conduct alcohol tests equal to at least 10 percent of the average number of CDL drivers. Alcohol tests of either the driver's breath or saliva must be performed immediately before, during, or after the driver's performance of safety-sensitive duties such as operating a commercial vehicle. Drug tests are required to be analyzed by HHS-certified labs. All test results must be reviewed by a board-certified medical review officer (MRO) before being reported to the driver's employer. The MRO will interview the driver to determine if there is a medical explanation for the driver's use of the prohibited substance. If the driver provides appropriate documentation and the MRO determines that the driver has a legitimate medical reason for using the prohibited substance, the result is reported as negative to his or her employer. The MRO is required to report any safety concerns to the driver's employer with regard to drug abuse and discuss the driver's use of any prohibited substances with the prescribing physician.

According to FMCSA regulations, the driver must be removed from safety-sensitive duty if the MRO reports a positive drug or alcohol test result to the driver's employer. The driver cannot return to a safety-sensitive function, such as operating a commercial vehicle, until he or she has completed the return-to-duty process, which includes being evaluated

¹¹Title V of Pub. L. No. 102-143, 105 Stat. 917, 952 (Oct. 28, 1991).

by a substance-abuse professional, successfully complying with prescribed education or treatment, and passing a return-to-duty alcohol or drug test. FMCSA officials stated that follow-up testing to monitor the driver's continued abstinence from drug use is also required. FMCSA regulations state that any driver, including independent self-employed operators who refuse to submit to a drug or alcohol test are not permitted to perform safety-sensitive functions until they complete a return-to-duty process.

FMCSA officials stated that the results of drug tests are not directly reported to FMCSA, but rather processed and maintained by the current employers. Officials noted that FMCSA audits CDL employers for compliance with FMCSA testing regulations.

In 2008, we reported examples of job hopping by commercial drivers who failed a drug test.¹² After losing employment for a positive test, job-hoppers then test negative on a preemployment test for another carrier and return to duty. In each of the 19 cases of job hopping we reported in our 2008 report, the second employer stated that knowledge of a previous positive drug test would have disqualified the driver. Some of the 19 drivers operated trucks carrying hazardous materials for periods of a month to over a year. These 19 cases were not generalizable to the population of CDL holders.

The MAP-21 Act could help improve the control vulnerabilities identified by our prior work. Specifically, the law requires DOT to establish, operate, and maintain a national clearinghouse with records relating to the results of positive drug and alcohol tests of commercial drivers or instances of refused tests. Once the clearinghouse has been established, employers must request and review their CDL drivers' records from the clearinghouse annually. The MAP-21 Act also requires DOT to develop a method to electronically notify an employer of each additional positive test result or other noncompliance.

¹²[GAO-08-829R](#).

States and FMCSA Conduct Roadside Inspections to Identify Impaired Drivers and Perform Safety Checks

FMCSA also conducts commercial vehicle and driver inspections as part of its roadside vehicle-inspection program. States can apply for Motor Carrier Safety Assistance Program grant funds for financial assistance in reducing the number and severity of crashes, injuries, and fatalities involving commercial vehicles. According to DOT, as a condition of receiving these funds, states must conduct these types of inspections. A software program is made available by FMCSA to identify which drivers or vehicles are recommended for inspection.

During an inspection, a FMCSA or state officer will generally examine the vehicle and its equipment, as well as the driver's license, medical certificate, and whether the driver is under the influence of alcohol or a prohibited drug. According to DOT, enforcement officials may demand to see a driver's medical certificate; however, they would not be able to make an independent assessment of the driver's medical condition absent any obvious indications of a problem. The roadside inspector would also only be able to address epilepsy or drugs and alcohol if the driver exhibited certain signs. FMCSA officials stated that drivers found to be using or possessing drugs or alcohol are reported into the MCMIS system, and additional actions (such as arrests or "out of service" indications in which the driver is immediately placed out of service and prohibited from operating the vehicle) may occur. In fiscal year 2011, over 3.5 million roadside inspections were conducted in which over 7 million violations were recorded, and of those violations, approximately 14 percent resulted in an out-of-service violation in which the driver, motor vehicle, or motor carrier was placed out of service because of safety issues.¹³

In addition to the roadside-inspection program, FMCSA conducts annual drug and alcohol strike-force sweeps. During the 2012 2-week sweep, FMCSA identified 287 commercial drivers who did not adhere to federal drug and alcohol regulations and who now face possible monetary fines and disqualification from operating a commercial vehicle. FMCSA also identified 128 truck and bus companies who now face possible enforcement actions for violations such as hiring drivers who had tested positive for illegal drugs and not implementing a drug and alcohol testing program. By conducting these sweeps, FMCSA has taken positive steps to help remove drivers that pose a risk to public safety from the road.

¹³Drivers can be cited for multiple safety violations during a single roadside inspection.

Examples of Commercial Drivers with Disqualifying Impairments Related to Epilepsy, Drugs, or Alcohol

We identified instances of drivers who operated—and sometimes crashed—commercial vehicles despite having medical conditions such as epilepsy. Epilepsy is a chronic disease characterized by seizures, loss of bodily control, and unconsciousness. We also found instances of state licensing agencies issuing or reissuing CDLs to commercial drivers with epilepsy or drug or alcohol dependence noted in their medical histories. FMCSA recommendations state that a person with an established history or clinical diagnosis of epilepsy is not physically qualified to drive a commercial vehicle for interstate commerce if he or she is taking antiseizure medication or has had a history of epilepsy or seizures within the past 10 years. These recommendations also state that individuals who use a controlled substance or habit-forming drug or who have a clinical diagnosis of alcoholism are not physically qualified to drive a commercial vehicle. The MAP-21 Act requires medical-certificate information to be transmitted to DOT on a monthly basis and mandates that states establish and maintain the capability to receive an electronic copy of a medical examiner's certificate for each CDL holder licensed in that state.

Drivers Operated Commercial Vehicles Despite Medical Impairments Related to Epilepsy

Out of millions of CDL holders, we identified 230 individuals who were in an accident or had a roadside inspection in a commercial motor vehicle at some point between 2008 and 2011, after they started receiving SSA disability benefits for epilepsy. Thirty-one of the 230 individuals we identified were involved in accidents while driving a commercial vehicle during this time. However, because DOT's database of crashes does not identify whether the driver's medical condition may have contributed to the accident, we could not determine the extent to which the epilepsy impairment actually caused the accident. We plan to refer these 230 individuals to DOT for appropriate action as warranted. We randomly selected for further investigation 5 of the individuals involved in commercial vehicle accidents and 4 of the 199 drivers selected for an FMCSA roadside inspection to confirm that they were driving commercial vehicles.

Eight of these 9 drivers selected for further investigation obtained CDLs after their epilepsy impairment date, with at least 6 of the 8 drivers obtaining their license within 10 years of having a seizure, a physical

disqualification for obtaining a CDL.¹⁴ Eight of the drivers were still entitled to SSA benefits for epilepsy because SSA continued to determine that they could not work due to their impairment. In two of the cases that resulted in an accident, a health-care professional had noted in SSA documentation that the individual should not be driving. Because state driver's license agencies nationwide only began requiring applicants' presentation of a medical certificate after January 30, 2012, we were unable to obtain medical examination reports from all states or drivers and do not know whether their medical examiners were aware of their conditions. We plan to refer these 9 individuals to their state driver's licensing agency for appropriate action as warranted.

Examples of individuals who were driving commercial vehicles after being diagnosed with epilepsy include the following:

- **Crash after epilepsy impairment.** According to SSA documentation, this individual suffered from epilepsy, seizures, blackouts, memory loss, vision problems, substance abuse, and affective mood disorder. Holding an active CDL, he was approved for SSA disability benefits in December 2007. He informed SSA that he had been involved in an auto accident but had no idea how it occurred, and that he could no longer drive due to his condition. He added that he had been a truck driver since 1977, but due to his confusion, his employer had sent drivers after him on three different occasions. We did not receive a medical examination form or certificate for this individual from the state that issued his CDL and thus were unable to determine whether a medical examiner considered or was aware of the driver's condition or whether a medical examination occurred. According to medical records contained in SSA documentation, medical professionals informed this individual in 2009 that he should not be driving and that it was unsafe to hold a job. However, he successfully renewed his CDL in August 2010. DOT records show that he was involved in a crash with a commercial vehicle 4 months later in December 2010. Because DOT's database did not identify whether the driver's medical condition may have contributed to the accident, we could not determine the extent to which the epilepsy impairment actually caused the accident.

¹⁴ For the other 2 drivers, we could not determine whether the individual had a seizure within 10 years of obtaining their license.

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- **Numerous accidents after epilepsy impairment.** A Washington state agency noted in 1989 that this driver's seizure disorder made it unsafe for him to drive any vehicle, commercial or otherwise. In 1990, SSA determined this individual was disabled due to epilepsy and organic brain syndrome, which is a decreased mental function due to a medical disease other than a psychiatric illness. According to a medical evaluation in this driver's SSA disability file, he began suffering from seizures and blackouts after an auto accident in 1976 but did not report them so he could continue driving tractor trailers. In 2000, the driver reported to SSA that medication did not prevent his weekly seizures. Despite this, Washington state issued him a CDL in 2002, 2005, and 2007. Washington state driving records reveal that he was involved in collisions in his commercial vehicle in 2005, 2006, and 2009. In 2009, a representative from this driver's employer informed SSA that the individual had been driving a truck for 4 years, but was fired for being involved in too many accidents. SSA suspended this individual's disability benefits from 2006 to 2009 while he was earning employment income. This individual surrendered his CDL in January 2012. Because DOT's database did not identify whether the driver's medical condition may have contributed to the accident, we could not determine the extent to which the epilepsy impairment actually caused the accidents.

CDLs Were Issued or Reissued to Drivers with Impairments Related to Epilepsy, Drugs, and Alcohol

From our random selection of 100 CDL holders, we identified 22 CDL holders who received SSA disability benefits where epilepsy, alcohol addiction, or drug dependence was a listed medical impairment and had CDLs issued or renewed after becoming eligible for those benefits. Specifically, according to SSA's disability database, 10 of the 22 individuals had epilepsy or a seizure disorder identified as a medical impairment in their disability records. The remaining 12 had alcohol or drug dependence noted in their disability records.¹⁵ According to DOT, FMCSA and the states do not obtain complete information on whether individuals are driving on the road, and we were not able to determine whether all of these individuals were actually driving a commercial vehicle after their CDLs were issued or renewed. We are referring any cases where an individual had a disqualifying impairment yet still had an active

¹⁵Each of the drivers we identified with drug or alcohol dependence noted in SSA's disability files also had another disabling condition noted in the files. Drug or alcohol dependence is not used as a basis to determine disability.

CDL to the state driver's licensing agency for appropriate action as warranted.

Examples of individuals who obtained or renewed a CDL license after SSA determined they were eligible for disability benefits include the following:

- **CDL issued despite epilepsy impairment.** This driver reported to SSA that he suffered from sudden seizures, sometimes daily, beginning in 1999. The driver reported having seizures as often as three times a week, taking 20 minutes to 2 hours to recover from each episode. According to medical documentation in the claimant's SSA disability file, he was also resistant to antiseizure medication. According to SSA documentation, the driver reported suffering from seizures as recent as 2008. The driver stated that he was unable to stand, walk, or sit for extended periods and that he suffered from memory loss, fatigue, and difficulty breathing. The driver was issued a new CDL by the state in November 2011 with endorsements allowing him to operate, among other things, school buses and passenger vehicles. To obtain this CDL, the driver certified to the state driver's licensing agency that he did not have a physical condition preventing him for exercising reasonable and ordinary control of a motor vehicle. This individual continues to receive SSA disability benefits for epilepsy while holding an active CDL. We did not receive a medical examination form or certificate for this individual from the state that issued his CDL and thus were unable to determine whether a medical examiner considered or was aware of the driver's condition or whether a medical examination occurred.¹⁶
- **CDL issued and renewed despite epilepsy impairment.** According to SSA documentation, this individual began receiving disability benefits for a seizure disorder in 2001 and informed SSA that he stopped driving when his seizures began in 1999. He suffered from seizures and unconsciousness. For example, according to SSA documentation he passed out while driving a truck and awoke while walking in the street with no recollection of what had occurred. SSA documents included a physician's note stating that the driver was medically disabled from any form of gainful occupation due to a

¹⁶According to DOT, most states do not require provision of the medical examination form on the state's own authority.

diagnosis of intractable seizure disorder. Despite his medical history, he was issued a first-time CDL in 2005, which was renewed in 2009. When applying for his CDL, he certified to the state driver's licensing agency that he did not have a condition that could cause a loss of consciousness. He continues to receive SSA disability benefits for seizures. We did not receive a medical examination form or certificate for this individual from the state that issued his CDL and thus were unable to determine whether a medical examiner considered or was aware of the driver's condition or whether a medical examination occurred.

- **CDL issued despite drug dependence.** In 2005, this individual's personal driver's license was suspended for 12 months after a Driving While Intoxicated (DWI) conviction. According to SSA documentation, in 2007 he was diagnosed with psychosis, a history of alcohol abuse, and cannabis abuse following a mental-health hospitalization. He stated that his illness began to interfere with his work in 2006 and that he became unable to work in 2009. He began receiving SSA disability benefits the following year for functional psychiatric disorders. Drug dependency was also noted in his file. SSA documentation states that in January 2009, a physician noted that this individual was unable to participate in employment or training activities in any capacity due to paranoid schizophrenia. However, this individual obtained a CDL from Virginia in June 2010. We did not receive a medical examination form or certificate for this individual from the state that issued his CDL and thus were unable to determine whether a medical examiner considered or was aware of the driver's condition or whether a medical examination occurred. In October 2010, he refused to submit to an alcohol test while operating a commercial motor vehicle. This refusal led to a DWI conviction and permanent CDL suspension in February 2011.

States Could Not Provide Medical Examination Certificates

Since most state driver's licensing agencies do not require a medical examination report to be presented to them, according to DOT, they were unable to provide these reports or medical certificates that we requested for 29 of the 30 individuals who had CDLs issued or renewed after becoming eligible for SSA benefits. We were therefore unable to determine whether medical examiners considered or were aware of each driver's conditions or whether a medical examination occurred for these

individuals. While FMCSA regulations are meant to prevent an individual with these conditions from receiving or renewing a CDL, states were not required to obtain and maintain medical certifications or medical examination reports at the time of our review. According to DOT, only a few states on their own authority required CDL holders to provide either a medical examination report or medical certificate. As mentioned earlier, as of January 30, 2012, FMCSA requires states to electronically store medical certificates for new and renewing CDL applicants and are required to electronically post this information for all CDL holders to the state's CDLIS driver records. States will also be required to report the date of the medical certification to the state's CDLIS driver record. In addition, the MAP-21 Act requires medical certificate information to be transmitted to DOT on a monthly basis and mandates that states establish and maintain the capability to receive an electronic copy of a medical examiner's certificate for each CDL holder licensed in that state who operates or intends to operate in interstate commerce. If these requirements are properly implemented and followed, they should help to prevent situations similar to these case studies from recurring.

Agency Comments and Our Evaluation

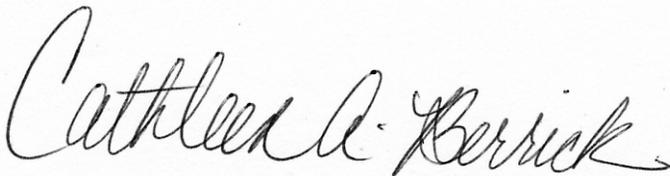
We provided a draft copy of this report to SSA and DOT. SSA did not have any comments. DOT's Director of Audit Relations, Office of the Secretary of Transportation, provided technical comments on the report, which have been incorporated as appropriate.

We are sending copies of this report to interested congressional committees, the Secretary of Transportation, the Commissioner of the Social Security Administration and other interested parties. In addition, this report is also available at no charge on the GAO website at <http://www.gao.gov>.

If you have any questions concerning this report, please contact me at (202) 512-6722 or BerrickC@gao.gov. Contact points for our Offices of

Congressional Relations and Public Affairs may be found on the last page of this report.

Sincerely yours,

A handwritten signature in black ink that reads "Cathleen A. Berrick". The signature is written in a cursive style with a large initial 'C' and a small 'A'.

Cathleen A. Berrick
Managing Director
Forensic Audits and Investigative Service

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