



STATE OF WASHINGTON  
**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
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**Date:** March 21, 2018

**To:** Rayne Pearson, Director, Administrative Law

**From:** Mathew Perkinson, Motor Carrier Safety Manager

**Re:** **TV-180132 and TV-180133 Keiko Martinez, d/b/a U-Relax Moving & Delivery Service**  
Evaluation of Safety Management Plan and recommendations regarding the company's safety rating and the cancellation of its provisional household goods carrier operating authority (THG-067029).

On February 21, 2018, staff completed a safety investigation of Keiko Martinez, d/b/a U-Relax Moving & Delivery Service (U-Relax Moving and Delivery Service) which resulted in a proposed *unsatisfactory* safety rating.

Federal law incorporated into the Commission's rules prohibits motor carriers like U-Relax Moving and Delivery Service from operating beginning on the 61<sup>st</sup> day after the date of the notice of a proposed unsatisfactory rating. A carrier may request a change in its safety rating based on evidence that it has taken corrective actions to address the identified violations, and that its operations currently meet the safety standard and factors in 49 CFR 385.5 and 385.7. In this case U-Relax Moving and Delivery Service has until April 23, 2018, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

**The proposed unsatisfactory safety rating was based on six violations of critical regulations – 391.45(a), 391.51(a), 395.8(a), 396.3(b), 396.17(a), and WAC 480-15-555.** "Critical" regulations are those identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a carrier's management controls. Patterns of non-compliance with a critical regulation are linked to inadequate safety management controls and higher than average accident rates.

The investigation resulted in a penalty assessment of \$8,300 due to the critical violations discovered by Staff (Docket Number TV-180132).

The critical violations discovered during the investigation are as follows:

1. **77 violations of Title 49 CFR 391.45(a) – Using a driver not medically examined and certified.** U-Relax Moving & Delivery Service allowed employees Efrain Martinez and Keiko Martinez to drive without a current medical certificate a total of 77 times during the six months preceding the safety investigation.

2. **Two violations of Title 49 CFR 391.51(a) – Failing to maintain driver qualification file on each driver employed.** U-Relax Moving & Delivery Service failed to maintain driver qualification files for employees Efrain Martinez and Keiko Martinez.
3. **Two violations of Title 49 CFR Part 395.8(a) – Failing to require driver to make a record of duty status.** The carrier did not require drivers Efrain Martinez and Keiko Martinez to prepare records of duty using a log book, timesheet, or other approved device.
4. **Two violations of Title 49 CFR 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.** The carrier failed to keep minimum records of inspection and maintenance for either of its two commercial motor vehicles.
5. **Two violation of Title 49 CFR 396.17(a) – Using a commercial motor vehicle not periodically inspected.** U-Relax Moving & Delivery Service used two commercial motor vehicles that had not been periodically inspected.
6. **Two violations of WAC 480-15-555 (Title 49 CFR Part 392.2) – Failing to acquire criminal background check of prospective employee.** The carrier failed to acquire criminal background checks on two prospective employees, Efrain Martinez and Gaudencio Martinez.

U-Relax Moving & Delivery Service received notice of its proposed unsatisfactory safety rating on February 21, 2018, and the 60 day period to request and receive a safety rating upgrade ends on April 23, 2018. The company also received information explaining the requirements it was to meet in its safety management plan.

In a February 28, 2018, Notice of Intent to Cancel Certificate, the commission instructed the company to submit its proposed safety management plan no later than April 22, 2018.

On March 15, 2018, U-Relax Moving & Delivery Service’s owner Keiko Martinez submitted a safety management plan addressing each violation noted during the routine safety investigation.

### **Evaluation of Safety Management Plan**

1. **The plan must address each acute, critical, or serious violation discovered during the most recent compliance investigation. Corrective actions to address other violations noted during the investigation must also be included.**
  - The safety management plan addresses all violations noted during the most recent safety investigation. The plan includes remedies that display that the carrier understands all of the regulations of which it was found to be in violation.
2. **Identify why the violations were permitted to occur.**
  - U-Relax Moving & Delivery Service explains that it was unaware that each violation was a “must item.” Keiko Martinez acknowledges that each violation occurred due to lack of knowledge of the safety regulations.
3. **Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action. (For example: Documentation may include items such as new policies and procedures, training programs and sign-in lists, or copies of new forms.**
  - U-Relax Moving & Delivery Service has taken action to correct all violations noted in the safety investigation. Keiko Martinez had each driver obtain a medical certificate. A copy of the medical certificate for Keiko Martinez was included in the safety management plan.

- U-Relax Moving & Delivery created a qualification file for each driver employed. The qualification file contained a driver's employment application, driver's road test certificate, driver's record abstract, criminal background check, copy of medical certification, and verification of the medical examiner on the National Registry.
  - U-Relax Moving & Delivery Service now requires each driver to submit a record of duty status. Keiko Martinez submitted a copy of Efrain Martinez's timecard for the month of February 2018 as an example.
  - U-Relax Moving & Delivery Services created a vehicle maintenance file for the two commercial motor vehicles that the carrier owns. The maintenance file contained vehicle identification, preventative maintenance schedule, record of maintenance with receipts, a driver vehicle inspection report, and an annual vehicle inspection report.
4. **Outline actions taken to ensure that similar violations do not reoccur in the future. YOU MUST DEMONSTRATE THAT YOUR OPERATIONS CURRENTLY MEET THE SAFETY STANDARD AND FACTORS SPECIFIED IN 49 CFR 385.5 and 385.7. To do so, you must demonstrate that you now have adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.**
- U-Relax Moving & Delivery Service's plan implements new policies and procedures that incorporate forms supplied by the Commission. The carrier has implemented new hire check sheets, review intervals, and use of a Google calendar to set up reminders for future actions. The safety management plan illustrates that the carrier comprehends what the appropriate corrective actions and systems are needed to ensure that similar violations were not likely to reoccur.
5. **If the request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., companies must include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.**
- U-Relax Moving & Delivery Service's owner Keiko Martinez attended the February 15, 2018 household goods training provided by the Commission as a refresher course. The carrier has supplied screen shots of a newly implemented Google calendar to track compliance items.
6. **Include any additional documentation relating to motor carrier safety and the prevention of crashes that you believe supports your request.**
- No additional documentation was submitted with the plan to support the request.
7. **Include a written statement certifying the carrier will operate within federal and state regulations and the carrier's operation currently meets the safety standard and factors specific in 49 CFR 385.5 and 385.7. A corporate officer; partner, or the owner of the company must sign the statement.**
- The plan states that there U-Relax Moving and Delivery Services will operate in compliance with the Federal Motor Carrier Safety Regulations and Hazardous Material Regulations. The owner Keiko Martinez certifies that the carrier operations currently meet the safety standards and factors specified in 49 CFR 385.5 and 385.7.

## Summary and Recommendations

Staff reviewed U-Relax Moving & Delivery Service's proposed safety management plan and concludes it is acceptable and meets the requirements of 49 CFR, Part 385. Staff recommends the commission consolidate Docket TV-180132 and TV-180133 and upgrade the company's operating authority to *conditional* effective by Friday, March 28, 2018. Because of the company's actions staff recommends the commission reduce the original penalty assessment by half from \$8,300 to \$4,150 and suspend \$2,075 of the reduced penalty for a period of two years with conditions:

1. The company maintains a *conditional* safety rating.
2. The company does not incur any repeat critical violations upon a non-rated follow-up safety investigation in one year (March 2019).
3. The remaining \$2,075 penalty is due and payable immediately; however staff would not object payment arrangements if requested.

The company took all the required steps to bring its safety operations into compliance with commission regulations. U-Relax Moving & Delivery Service submitted a safety management plan that addresses each violation, identifies how they occurred, describes the steps taken to correct them, and put controls in place to ensure the company maintains compliance. Documentation of medical certificates, medical examiner verification, criminal background checks, records of duty status, vehicle maintenance forms, annual inspections, driver vehicle inspection reports, employment applications, driver's road test and driving abstracts were provided.