



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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February 14, 2020

Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Assure Ride Non Emergency Medical Transportation Company, LLC, d/b/a Assure Ride*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TE-191058

Dear Mr. Johnson:

On January 8, 2020, the Washington Utilities and Transportation Commission (commission) issued a penalty assessment against Assure Ride Non Emergency Medical Transportation Company, LLC, d/b/a Assure Ride (Assure Ride or company) in the amount of \$1,700 for violations of Washington Administrative Code (WAC) 480-30-191, Bodily Injury and Property Damage Liability Insurance, and WAC 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 382 – Controlled Substances and Alcohol Use and Testing, and 49 CFR Part 383 – Commercial Driver's License Standards; Requirements and Penalties, as follows:

- **Six violations of WAC 480-30-191 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.** Assure Ride operated a 16 passenger bus on six occasions between September 24 and October 29, 2019, without having the required minimum levels of insurance.
- **Six violations of 49 CFR § 383.37(a) – Knowingly allowing, requiring, permitting, or authorizing an employee to operate a commercial motor vehicle during any period in which the driver does not have a current commercial learner's permit (CLP) or commercial driver's license (CDL) or does not have a CLP or CDL with the proper class or endorsements.** The company allowed drivers Alexandros Angous and Jordan Babineaux to operate a commercial motor vehicle designed for 16 passengers without a valid CDL.

- **One violation of 49 CFR § 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.** Assure Ride allowed driver Alexandros Angous to operate a commercial motor vehicle before the company received a negative pre-employment controlled substance test result.

On February 13, 2020, Assure Ride filed with the commission its application for mitigation of penalties. In the request for mitigation, Jordan Babineaux, President of Assure Ride, admits the violations, states the company provided proof of sale to commission staff (staff) for its 16 passenger bus, implemented new practices and procedures to ensure compliance, and asks that the penalties be reduced for reasons set out in the company's response.

Companies are required to submit requests for mitigation within 15 days of receiving the notice of penalties, otherwise the commission can deny the request. Staff finds Assure Ride's request for mitigation to be untimely, and under normal circumstances would recommend that the commission deny the request. However, on December 31, 2019, Assure Ride submitted to staff a corrective action safety plan in which the company acknowledges the violations and describes steps it took to prevent future occurrences. For this reason staff recommends mitigation of the penalties as follows:

- **WAC 480-30-191 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.** The company corrected this violation during the safety investigation when it sold its 16 passenger commercial motor vehicle. With the 16 passenger bus no longer in operation, Assure Ride possesses adequate levels of insurance. The assessed penalty is \$600 for six occurrences of this violation. Staff recommends the penalty be reduced to \$300.
- **49 CFR § 383.37(a) – Knowingly allowing, requiring, permitting, or authorizing an employee to operate a commercial motor vehicle during any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class or endorsements.** Assure Ride corrected this violation when it sold its 16 passenger bus, removing the requirement for its drivers to possess a current CLP or CDL. The assessed penalty is \$600 for six occurrences of this violation. Staff recommends the penalty be reduced to \$300.
- **49 CFR § 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.** Assure Ride corrected this violation with the sale of its 16 passenger commercial motor vehicle, eliminating the requirement to perform DOT pre-employment controlled substance testing. The company has also implemented a new hire process to include pre-employment controlled substance testing, which goes beyond the DOT requirement. The assessed penalty is \$500 for one violation. Staff recommends the penalty be reduced to \$250.

Assure Ride is a small company that operates four commercial motor vehicles and employs seven drivers. The company reported \$350,000 in gross revenue for 2018.

Mark L. Johnson
February 14, 2020
Page 3

Staff recommends the penalty of \$1,700 be reduced to \$850. Staff further recommends that \$425 of the reduced penalty be suspended for a period of two years before being waived, on the conditions that: (1) staff conducts a follow-up safety investigation in two years or as soon thereafter as practicable to review the company's safety management practices, (2) the company not incur any repeat violations of critical and acute regulations, and (3) Assure Ride pays the \$425 portion of the penalty that is not suspended.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at (360) 867-8305, or by email at Jason.Hoxit@utc.wa.gov.

Sincerely,

/s/ Jason Sharp
Jason Sharp
Motor Carrier Safety Supervisor, Transportation Safety