## STATE OF INDIANA

## BUREAU OF MOTOR VEHICLES

IN THE MATTER OF:	)	Case No. BMV-2207-001386
K M	)	
DLN:	)	

## FINAL ORDER

- 1. Karama Market ("Petitioner") requested an administrative review of the Indiana Bureau of Motor Vehicles' ("BMV") decision regarding whether BMV acted properly in denying Petitioner's request for a hardship waiver of the six (6) month learner's permit requirement under Indiana Code § 9-24-3-2.5(a)(2).
- 2. The matter was referred to Administrative Law Judge Andrea Rahman ("ALJ Rahman") for review under Indiana Code § 4-21.5-3-7(a). A telephonic hearing was held on September 22, 2022. The Petitioner appeared; self-represented. BMV appeared by BMV Attorney Matt Kestian. The hearing was conducted using a dedicated telephone conference line and was recorded.
- On September 26, 2022, ALJ Rahman issued a non-final order affirming the BMV's action
  of denying Petitioner's request for a hardship waiver because Petitioner has a prior
  suspension on his Indiana driving record.
- 4. On September 29, 2022, Petitioner submitted a Request for Reconsideration of the ALJ's Recommended Order. Petitioner stated in his request that he has stage 3 lung cancer and needs to be able to drive back and forth to his doctor's appointments and other related health appointment. To support his claim of a lung cancer diagnosis and subsequent treatment, Petitioner provided letters from two of his treating physicians. Petitioner also stated in his request that he does not have anyone to help.
- 5. Under Indiana Code § 9-24-3-3, the BMV may grant a hardship waiver of: "(1) up to six (6) months of the age requirement, (2) any of the experience or practice and driving requirements, or (3) the requirements described in Indiana Code § 9-24-3-2.5(a)(2).
- 6. To obtain a hardship waiver: "An applicant's driving privileges must not be or have been suspended, revoked, invalidated, canceled, or the subject of any other similar action." 140 IAC 4-2-1(c). The use of the word "must" indicates that this issue is not within the BMV's discretion. However, under subsection (g) of 140 IAC 4-2-1, "The Commissioner may alter any of the foregoing procedures when in his or her opinion an extreme emergency exists."

- 7. Petitioner's Indiana Driver's license (# 1370-87-4824) has been suspended twenty (20) times since 2001 and is currently on an indefinite, or lifetime, suspension.
- 8. Pursuant to I.C. 4-21.5-3-29(b), I hereby AFFIRM the ALJ's Non-Final Order.
- 9. Petitioner is hereby notified that this is a Final Order. Petitioner may seek judicial review of this Final Order pursuant to I.C. 4-21.5-5.

SO ORDERED.

Date

Joe B. Hoage, Commissioner

Indiana Bureau of Motor Vehicles

Written notice of this order shall be provided to:

Petitioner

Indiana Bureau of Motor Vehicles