

**MARYLAND INSURANCE ADMINISTRATION**

MARYLAND INSURANCE  
ADMINISTRATION  
*EX REL.* T.A.<sup>1</sup>

Complainant

v.

MARYLAND AUTOMOBILE  
INSURANCE FUND,

Licensee

\* REVIEW OF A RECOMMENDED  
\* DECISION ISSUED BY  
\* EDWARD J. KELLEY  
\* AN ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE OF  
\* ADMINISTRATIVE HEARINGS,  
\* OAH No.: MIA-CC-33-23-04766  
\* MIA No.: MIA 2023-01-012

\* \* \* \* \*

**FINAL ORDER**

As a consequence of the Complainant’s failure to file a response to the Proposed Default Order in the above-captioned case, it is hereby, ORDERED that the attached Proposed Default Order by Administrative Law Judge (ALJ) Kelley is approved by the Maryland Insurance Commissioner.

**THEREFORE**, it is hereby

**ORDERED** that the Proposed Default Order of ALJ Kelley be adopted as the Commissioner’s Final Order, and it is further

**ORDERED** that the MIA’s Determination letter dated January 10, 2023, that Licensee did not violate Maryland insurance law is upheld, and it is further

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<sup>1</sup>Initials are used to maintain the Complainant’s confidentiality.

**ORDERED** that the records and publications of the Maryland Insurance Administration reflect this decision.

It is so **ORDERED** this 31<sup>st</sup> day of July, 2023.

**KATHLEEN A. BIRRANE**

Commissioner

signature on original

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ERICA J. BAILEY

Associate Commissioner for Hearings

T.A.,<sup>1</sup>

COMPLAINANT

v.

MARYLAND AUTOMOBILE

INSURANCE FUND,

LICENSEE

\* \* \* \* \*

\* BEFORE EDWARD J. KELLEY,  
\* AN ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE  
\* OF ADMINISTRATIVE HEARINGS  
\* OAH No.: MIA-CC-33-23-04766  
\* MIA No.: MIA-2023-01-012

PROPOSED DEFAULT ORDER

On December 2, 2022, the Maryland Insurance Administration (MIA) received a complaint from T.A. (Complainant) alleging unfair claim settlement practices by the Maryland Automobile Insurance Fund (Licensee). Specifically, the Complainant alleges that the Licensee erred in the removal of full coverage from her vehicle while the vehicle still had a lienholder. After an investigation, the MIA found that the Licensee did not violate Maryland insurance laws and notified the Complainant of its finding by a letter dated January 18, 2023. On January 31, 2023, the Complainant requested a hearing. On February 13, 2023, the MIA transmitted the matter to the Office of Administrative Hearings (OAH) to conduct a contested case hearing and issue a proposed decision.<sup>2</sup>

On April 20, 2023, at 9:30 a.m., I convened the scheduled hearing at the OAH in Hunt Valley, Maryland. The Appellant represented herself. Kimberly E. Beyer, Esquire, represented the Licensee. At the outset of the hearing, the Appellant requested a postponement because she lost important documentation related to this case during a recent residential move, and she also

<sup>1</sup> Initials are used to maintain the Complainant's confidentiality.

<sup>2</sup> The Insurance Commissioner may delegate to the OAH the authority to issue: (a) proposed or final findings of fact; (b) proposed or final conclusions of law; (c) proposed or final findings of fact and conclusions of law; or (d) a proposed or final order. Code of Maryland Regulations (COMAR) 31.02.01.04-1A.

was attempting to retain counsel. The Licensee did not object to the postponement request. I granted the postponement request, and the case was rescheduled to June 13, 2023, at 9:30 a.m., at the OAH.

On April 20, 2023, the OAH mailed a Notice of Hearing to the parties at their addresses of record. The Notice stated that a hearing was scheduled for June 13, 2023, at 9:30 a.m., at the OAH. The Notice further advised the Complainant that failure to attend the hearing might result in "a decision against you." The Notice included the phone number for the OAH's MIA Unit Docket Specialist. The United States Postal Service did not return any Notices to the OAH. I find the Complainant received proper notice of the hearing. *See Maryland State Bd. of Nursing v. Sesay*, 224 Md. App. 432, 448 (2015) ("Generally, notice by mail is presumed to provide constitutionally sufficient notice."); *see also* Md. Code Ann., State Gov't § 10-208 (2021).

I convened the hearing at 9:30 a.m. on June 13, 2023, at the OAH as scheduled. Ms. Beyer was present on behalf of the Licensee with a witness ready to proceed. Neither the Complainant nor anyone authorized to represent the Complainant appeared. Ms. Beyer stated that the Appellant had contacted her office by phone earlier that morning and spoke with an office manager. The office manager informed Ms. Beyer that the Appellant stated that she had been hospitalized since Wednesday, June 7, 2023, and that she would not be attending the hearing. The Appellant only supplied information to the office manager; she did not ask the Licensee to seek a postponement or any other specific relief in the case.

Upon learning this information from Ms. Beyer, I took a recess, during which time I contacted the OAH's Clerk's Office, which stated that the Appellant had not contacted the OAH regarding the case. I then reconvened the hearing at approximately 9:50 a.m. Neither the Complainant nor anyone authorized to represent the Complainant appeared. The Complainant

had not contacted the OAH to request a postponement or any other relief in the case. The Licensee did not request a postponement of the case. I concluded the hearing.<sup>3</sup>

The OAH Rules of Procedure are applicable to this proceeding. COMAR 28.02.01.01A; COMAR 31.02.01.01B. Those rules contemplate the issuance of a default order when a party fails to appear, stating:

If, after receiving proper notice . . . a party fails to attend or participate, either personally or through a representative, in a prehearing conference, hearing, or other stage of a proceeding, the [Administrative Law Judge] may proceed in that party's absence or may, in accordance with the hearing authority delegated by the agency, issue a final or proposed default order against the defaulting party.

COMAR 28.02.01.23A; *see also* COMAR 31.02.01.10. The Complainant received proper notice of the hearing but failed to appear.

THEREFORE, I **PROPOSE** the following:

1. The Complainant is in **DEFAULT**;
2. All further proceedings in this matter are **TERMINATED**, and a disposition of **DISMISSAL** is entered against the Complainant;
3. The Complainant or the Complainant's representative may file a written motion to modify or vacate this Proposed Default Order within fifteen (15) days with the Hearing and Appeals Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202, stating the grounds for the request. COMAR 28.02.01.23D; COMAR 31.02.01.09-1B(4); COMAR 31.02.01.10G. If good cause is not shown to excuse the

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<sup>3</sup> The OAH Rules of Procedure authorize an emergency postponement due to sudden, unforeseen circumstances, such as a sudden, unforeseen hospitalization. COMAR 28.02.01.16E(1). In such circumstances, the request for postponement may be made by telephone to the OAH and must be promptly supported by documentation of the reason of the request. COMAR 28.02.01.16E(2). The information presented at the hearing indicates that the Appellant was admitted to the hospital on Wednesday, June 7, 2023, six days prior to the hearing. No information was provided as to whether the Appellant's hospitalization was sudden and/or unforeseen. The information presented at the hearing also indicates that the Appellant was able to use a phone because that is how she contacted the Licensee's counsel's office on the morning of the hearing. The Appellant did not contact the OAH prior to the conclusion of the hearing to request an emergency postponement based on her hospitalization.

default, the Proposed Default Order will be affirmed as the final order, and the denial of the Complainant's complaint against the Licensee will stand. COMAR 31.02.01.10H(2); and

4. Any motion requesting that the Proposed Default Order be vacated or modified must include a certificate of service indicating that a copy of the written motion was mailed, postage prepaid, to the Licensee's attorney: Kimberly E. Beyer, Esquire, John P. Stabile & Associates, 1215 East Fort Avenue, Suite 401, Baltimore, Maryland 21230.

**signature on original**

June 20, 2023  
Date Order Issued

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Edward J. Kelley  
Administrative Law Judge

EJK/dlm  
#205666

**Copies Mailed To:**

Complainant

Kimberly E. Beyer, Esquire  
John P. Stabile & Associates  
1215 East Fort Avenue, Suite 401  
Baltimore, MD 21230

Eric Toney  
Maryland Automobile Insurance Fund  
1215 East Fort Avenue, #300  
Baltimore, MD 21230