

MARYLAND INSURANCE ADMINISTRATION

MARYLAND INSURANCE	*	REVIEW OF A RECOMMENDED
ADMINISTRATION	*	DECISION ISSUED BY
<i>EX REL.</i> D.N. ¹	*	BRIAN ZLOTNICK
Complainant	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE OF
TRANSAMERICA LIFE	*	ADMINISTRATIVE HEARINGS,
INSURANCE COMPANY,	*	OAH No.: MIA-CC-33-23-09991
Licensee	*	MIA No.: MIA 2023-02-004

* * * * *

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”) Zlotnick is approved by the Maryland Insurance Commissioner.

THEREFORE, it is hereby

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

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

It is so **ORDERED** this 4th day of August, 2023.

¹ In the interest of confidentiality, initials are used in place of the Complainant’s name.

KATHLEEN A. BIRRANE

Commissioner

signature on original

ERICA J. BAILEY

Associate Commissioner for Hearings

D.N.,¹

COMPLAINANT

v.

TRANSAMERICA LIFE INSURANCE
COMPANY,

LICENSEE

* BEFORE BRIAN ZLOTNICK,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH CASE No.: MIA-CC-33-23-09991
* MIA FILE No.: MIA-2023-02-004

* * * * *

PROPOSED DEFAULT ORDER

On October 3, 2022, the Complainant filed a complaint against the Transamerica Life Insurance Company (Licensee) with the Maryland Insurance Administration (MIA) alleging that the Licensee erred in allowing her policy to lapse due to non-payment of her premiums. After investigating the complaint, and finding no violations of Maryland insurance law, the MIA issued a written determination on December 19, 2022. On January 19, 2023, the Complainant requested a hearing to contest that determination.

On April 4, 2023, the MIA transmitted the matter to the Office of Administrative Hearings (OAH) for a contested case hearing. In its transmittal, the MIA delegated to the OAH authority to issue a proposed decision.²

On April 19, 2023, the OAH sent a Notice of Hearing (Notice) to the Complainant by United States mail to her address of record with the MIA. COMAR 28.02.01.05C(1). The Notice stated that a hearing was scheduled for June 8, 2023, at 1:00 p.m., at the OAH, 11101 Gilroy Road, Hunt Valley, Maryland. The Notice further advised the Complainant that failure to attend the hearing might result in “a decision against you.”

¹ At the request of the MIA, initials are used in place of the Complainant’s name to protect the Complainant’s confidentiality.
² The Insurance Commissioner may delegate to the OAH the authority to conduct a contested case hearing and 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.

The postal service did not return the Notice to the OAH as undeliverable. In addition, the Complainant did not notify the OAH of any change of mailing address. COMAR 28.02.01.03E. The Complainant made no request for postponement prior to the date of the hearing. COMAR 28.02.01.16. In these circumstances; 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); COMAR 28.02.01.05A, C.

I convened a hearing at the OAH in Hunt Valley, Maryland, as scheduled, at which time neither the Complainant nor anyone authorized to represent the Complainant appeared. Gerardo Puig, Assistant General Counsel, appeared for the Licensee, accompanied by one witness, Stacia Jones, Paralegal, Licensee. After waiting twenty minutes and still not having received any communication from the Complainant, the Licensee made a Motion for Default (Motion) against the Complainant.

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. Having found that the Complainant received proper notice of the hearing, but failed to appear, I will grant the Licensee’s Motion.

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, within fifteen (15) days from the date this Default Order was issued, with the Hearing and Appeals Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202, a written motion to modify or vacate this Proposed Default Order, 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 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 Gerardo Puig, Assistant General Counsel, 1201 Wills Street, Suite 800, Baltimore, MD 21231.

June 15, 2023
Date Order Issued

BMZ/cmh
205719

signature on original

Brian Zlotnick
Administrative Law Judge

Copies Mailed To:

Complainant

Gerardo Puig, Esquire
1201 Wills Street
Suite 800
Baltimore, MD 21231

Melissa Harris
Transamerica Life Insurance Company
6400 C Street, SW
Cedar Rapids, IA 52499