

MARYLAND INSURANCE ADMINISTRATION

MARYLAND INSURANCE	*	REVIEW OF A RECOMMENDED
ADMINISTRATION	*	DECISION ISSUED BY
<i>EX REL.</i> F.M. & R.M. ¹ ,	*	DENISE O. SHAFFER
Complainants	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE OF
FOREMOST INSURANCE	*	ADMINISTRATIVE HEARINGS
COMPANY,	*	OAH No.: MIA-CC-33-22-16642
Licensee	*	MIA No.: MIA 2022-06-020
* * * * *		

FINAL ORDER

I have reviewed Complainants' email and attached letter dated October 21, 2022, regarding their failure to appear at the Hearing scheduled for October 11, 2022. In this email and attached letter Complainants state that they are requesting the hearings be rescheduled for some time in the April, 2023, based on major medical procedures that they have upcoming that have been planned since April, 2021. However, no additional documentation supporting their request was provided. After my review of the email and attached letter, I find that Complainants have not demonstrated good cause exists for vacating or modifying the Default Order issued by Administrative Law Judge (ALJ) Shaffer.

In this case, ALJ Shaffer has denied Complainants' request for postponement on multiple occasions based on Complainants' failure to provide supporting documentation. Additionally, a member of the Office of Administrative Hearing's (OAH) staff contacted Complainant F.M. by

¹ The Complainant is identified by initials only to preserve the confidentiality of the proceeding.

telephone and informed him that he could request that the hearing be held virtually instead of in person and on October 7, 2022, at 4:11 p.m., Complainant F.M. made the request that the scheduled in person hearing be converted to a virtual hearing.

ALJ Shaffer did not receive the request until the morning of the Hearing because October 7, 2022, was a Friday and the office was closed on Monday, October 10, 2022. On October 11, 2022, at the start of the Hearing, ALJ Shaffer granted this request and sent a virtual hearing link to the Complainants' email address of record to appear. Complainants failed to join the virtual hearing and failed to contact the OAH by telephone during that time. Therefore, it is hereby, ORDERED that the attached Proposed Default Order by ALJ Shaffer is approved by the Maryland Insurance Commissioner.

THEREFORE, it is hereby

ORDERED that the Proposed Default Order of ALJ Shaffer 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 18th day of January, 2023.

KATHLEEN A. BIRRANE
Commissioner

signature on original

LISA LARSON
Director of Hearings

F.M. & R.M.,¹

COMPLAINANTS

v.

FOREMOST INSURANCE

COMPANY,

LICENSEE

7

* BEFORE DENISE O. SHAFFER,
 * AN ADMINISTRATIVE LAW JUDGE
 * OF THE MARYLAND OFFICE
 * OF ADMINISTRATIVE HEARINGS
 * OAH No.: MIA-CC-33-22-16642
 * MIA No.: MIA-2022.06.020

* * * * *

PROPOSED DEFAULT ORDER

On January 25, 2022, the Complainants filed a complaint against Foremost Insurance Company (Licensee) with the Maryland Insurance Administration (MIA) alleging that the Licensee had erred in its denial of their home insurance claim. The MIA investigated the complaint but found no violations of Maryland insurance law. On July 11, 2022, the Complainants requested a hearing. On July 13, 2022, 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 July 19, 2022, the OAH provided a Notice of Hearing (Notice) for September 15, 2022.³ On August 23, 2022, counsel for the Licensee requested a postponement documenting a work conflict. The OAH granted the postponement request and on August 30, 2022 resent Notice of Hearing to the parties. The Notice stated that a hearing was scheduled for October 11, 2022 at 9:30 a.m. at the OAH in Hunt Valley, Maryland. The Notice further advised the Complainants that failure to attend the hearing might result in “a decision against you.”

¹ Initials are used to maintain 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.

³ COMAR 28.02.01.05C(1).

The United States Postal Service did not return any Notices to the OAH. Code of Maryland Regulations (COMAR) 28.02.01.03E. I conclude that the Complainants received proper notice of the hearing.⁴

On October 3, 2022, the Complainants requested a postponement stating that they lived in North Carolina, had been impacted by Hurricane Ian, were involved in “needed Health Treatments, Major Medical Procedures, and Rehab and are in such a stressful and uncertain time.”⁵ The Complainants requested a hearing after March of 2023. On October 5, 2022, the OAH denied the postponement request as the Complainants did not provide any documentation of medical appointments or other conflicts for October 11, 2023. An employee of the OAH contacted the Complainants by phone and advised that the Complainants could request a virtual hearing. On October 6, 2022, the Complainants again emailed OAH requesting a postponement. No additional documentation was provided showing an inability to participate in the hearing on October 11, 2022. The renewed postponement request was denied. On Friday, October 7, 2022 at 4:11 p.m., the Complainants filed a request for a virtual hearing. Monday, October 10, 2022 was a holiday, and I did not receive the request until the morning of October 11, 2022.

On October 11, 2022, I convened a hearing at the OAH in Hunt Valley, Maryland, as scheduled, at which time neither the Complainants nor anyone authorized to represent the Complainants appeared. Counsel for the Licensee was present, with a witness, Ryan Pasterfield, and was prepared to proceed. I announced the motion for a virtual hearing at the start of the proceedings. At 9:30 a.m. I called the phone number provided by the Complainants in their email. I left a message advising that I would send a link, via the email provided by the Complainants to a Webex meeting room. At 9:35 a.m., I emailed the link to the email address provided.

⁴ COMAR 28.02.01.05A, C.

⁵ COMAR 28.02.01.16.

We waited over twenty minutes and the Complainants did not join the virtual hearing, contact OAH by phone, or appear in person for the hearing. I was in the physical and virtual hearing room from 9:30 a.m. until 10:00 a.m., during which time the Complainants failed to appear.

THEREFORE, I **PROPOSE** the following:

1. The Complainants are in **DEFAULT**;
2. All further proceedings in this matter are **TERMINATED**, and a disposition of **DISMISSAL** is entered against the Complainants;
3. The Complainants or the Complainants' 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.⁶ 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 Complainants' complaint against the Licensee will stand;⁷ 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 Craig D. Roswell, Esquire, Niles, Barton & Wilmer, LLP, 11 S. Calvert Street, Suite 1400, Baltimore, Maryland 21202.

October 12, 2022
Date Order Issued

DOS/sh
#201271

signature on original

Denise O. Shaffer
Administrative Law Judge

⁶ COMAR 28.02.01.23D; COMAR 31.02.01.09-1B(4); COMAR 31.02.01.10G.

⁷ COMAR 31.02.01.10H(2).

Copies Mailed To:

Complainants

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