

**OFFICE OF THE INSURANCE COMMISSIONER
MARYLAND INSURANCE ADMINISTRATION**

B.G.¹,

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Plaintiff,

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v.

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Case No. MIA 27-1001-23-00038

**STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY**

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Defendant.

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DECISION

B.G. (“Plaintiff”) initiated this proceeding under § 27-1001 of the Insurance Article, Md. Code Ann., Ins. § 27-1001 (2017 Repl. Vol.), alleging that State Farm Mutual Automobile Insurance Company (“Defendant”) breached its contractual obligations to her by failing to make a good faith offer or payment under the uninsured/underinsured motorists provision of her automobile insurance policy (the “Policy”), and in connection with an auto accident that occurred on November 13, 2018 in Anne Arundel County, Maryland (the “Claim”).

For the reasons set forth below, the Maryland Insurance Administration (the “Administration”) concludes that Plaintiff has failed to meet her burden to demonstrate that Defendant breached its duty of coverage owed to Plaintiff by not paying the full amount of the loss claimed by Plaintiff.

I. STANDARD OF REVIEW

¹ The Maryland Insurance Administration (MIA) uses initials to protect Plaintiff’s and other individuals’ privacy.

Section 3-1701 Md. Code Ann, Cts. & Jud. Proc. § 3-1701 (2020 Repl. Vol.), authorizes the award of special damages to an insured in a civil coverage or breach of contract action if the insured demonstrates that the insurer failed to act in good faith in denying, in whole or in part, a first-party property insurance or disability insurance claim. However, before the insured may file an action seeking special damages pursuant to Section 3-1701, the insured must first submit a complaint to the Administration under Section 27-1001. Within ninety (90) days of the receipt of such complaint, the Administration must render a decision on the complaint that determines:

1. Whether the insurer is required under the applicable policy to cover the underlying claim;
2. The amount the insured was entitled to receive from the insurer;
3. Whether the insurer breached its obligation to cover and pay the claim;
4. Whether an insurer that breached its obligation failed to act in good faith; and
5. If there was a breach and the insurer did not act in good faith, the amount of damages, expenses, litigation costs and interest.

“Good faith” is defined in § 27-1001 as “an informed judgment based on honesty and diligence supported by evidence the insurer knew or should have known at the time the insured made the claim.”

Further, an insurer may not be found to have failed to act in good faith under § 27-1001 “solely on the basis of delay in determining coverage or the extent of payment to which the insured is entitled if the insurer acted within the time period specified by statute or regulation for investigation of a claim by an insurer.” § 27-1001(e)(3).

A plaintiff has the burden of proof and must meet this burden by a preponderance of the evidence. *See* Md. Code Ann., State Gov’t Art., section 10-217; *Md. Bd. Of Physician v. Elliott*, 170 Md. App. 369, 435, cert denied, 396 Md. 12 (2006).

II. PROCEDURAL BACKGROUND

On June 15, 2023, the Administration received Complaint No. 27-1001-23-00038 (the "Complaint") stating a cause of action in accordance with Section 27-1001.² In her Complaint filing, which consists of a copy of her complaint filed in the Circuit Court for Anne Arundel County, civil action number C-02-CV-001531, Plaintiff alleged that she was covered by a policy of insurance with Defendant containing a provision for uninsured/underinsured motorist coverage on November 13, 2018. Further, Plaintiff alleged that at the time of the accident, M.W.'s vehicle was covered by a policy of insurance with insufficient coverage available to cover the Plaintiff's injuries and damages. As a result, Plaintiff alleges that the underinsured motorist provision of her automobile insurance policy with Defendant covers Plaintiff's injuries and damages caused by the accident. Finally, Plaintiff alleged that Defendant breached its obligations under the Policy by failing to make payment to cover Plaintiff's injuries and damages caused by the accident.

On June 28, 2023, as required by Section 27-1001(d)(3), the Administration forwarded the Complaint and accompanying documents to Defendant. Defendant provided a response to the Complaint and accompanying documents as required by Section 27-1001(d)(4), acknowledging that the Policy provided uninsured/underinsured motorist coverage for the vehicle operated by Plaintiff with policy limits of \$250,000 per person/\$500,000 per accident.

III. FINDINGS

² The Plaintiff was notified by the Office of Hearings that her May 4, 2023 filing was incomplete. Plaintiff re-submitted the Complainant filing, which was received by the Office of Hearings on June 12, 2023.

Based on a complete and thorough review of the written materials submitted by the parties, and by a preponderance of the evidence, the Administration finds that Plaintiff has failed to establish that she is entitled to additional coverage for the Claim under the Policy.

This matter arose from a motor vehicle accident on November 13, 2018 in Anne Arundel County, MD. On that date, Plaintiff was involved in a motor vehicle accident with a vehicle operated by M.W., in which M.W. rear-ended Plaintiff's vehicle. Plaintiff asserts that the accident was caused due to the negligence of M.W. At the time of the accident, M.W. was insured by an automobile insurance policy issued by Allstate Insurance Company ("Allstate"), with a limit of liability coverage of \$50,000 per person/\$100,000 per occurrence. ("Policy")

Defendant was first notified of the accident approximately three months later, on February 4, 2019. At that time, Plaintiff submitted a claim under the Personal Injury Protection ("PIP") coverage of the Policy. Then, by letter dated February 19, 2019, Defendant sent a letter to Plaintiff stating, "[t]his letter is to notify you that State Farm has paid the maximum \$2,500 benefit available under the medical portion of the Personal Injury Protection coverage. Therefore, we are unable to consider additional payments for medical benefits." Then, by letter dated November 22, 2019, Plaintiff's attorney submitted a letter of representation to Defendant stating,

Please be advised that this office represents the interests of [Plaintiff] who was injured through no fault of her own during an automobile collision of November 13, 2018. It is my understanding that [Plaintiff] has been in regular communication with State Farm concerning this claim and that she has exercised her rights to preserve all claims that she might have under PIP, MedPay and underinsured/uninsured motorist provisions of her policy. Please kindly direct all future correspondence concerning [Plaintiff's] claim to my attention.

* * * *

Approximately nine months later, by letter dated August 27, 2020, Plaintiff's attorney submitted another letter to Defendant stating,

A letter of representation was previously submitted to State Farm (see attached). I am in the process of preparing a demand to the at fault driver's insurance carrier and contacted you today in that regard and to preserve State Farm's subrogation interest. I was told that the letter of representation was not received. Please kindly contact me with the name and contact information of who is handling [Plaintiff's] uninsured motorist claim.

* * * *

However, no further communication was received until January 2022, nearly *four years after the accident*.

By letter dated January 24, 2022, Plaintiff's attorney first submitted a settlement demand letter to Defendant under the uninsured/underinsured motorist provision of the Policy. The following itemized amounts, and supporting documents, were first provided to Defendant in the January 24, 2022 settlement demand letter:

1. Patient First	\$859.09
2. Grace Care	\$7,970.83
3. AAMC	\$50,897.86
4. Chesapeake Medical Imaging	\$3,311.00
5. Riva Road Surgical Center	\$17,037.00
6. MD Brain & Spine	\$61,622.00
7. Johns Hopkins Home Care	\$1,615.00
TOTAL	\$143,312.78
8. Lien Claimed by Care First	\$71,109.76

* * * *

Defendant asserts that shortly after it received the January 24, 2022 settlement demand; it was served with the aforementioned civil complaint filed in the Circuit Court for Anne Arundel County, civil action number C-02-CV-001531. Further, Defendant asserts that it first received correspondence from Plaintiff's attorney on April 14, 2022 indicating that M.W.'s automobile insurance carrier, Allstate, had agreed to tender its policy limit for the Plaintiff's liability claim

for \$50,000. Further, in June 2022, Defendant advised Plaintiff's attorney that it would not waive subrogation against M.W. Defendant then issued a payment of \$50,000 to Plaintiff.

Following a jury trial in the aforementioned civil action filed in the Circuit Court for Anne Arundel County, the jury rendered a verdict in favor of Plaintiff for \$110,000 for non-economic damages.

On July 11, 2023, the Circuit Court for Anne Arundel County entered judgment in the above referenced civil action, with a subsequent correction on August 2, 2023. On July 11, 2023, the Circuit Court for Anne Arundel County entered judgment, as follows:

1. Monetary judgment in favor of Plaintiff in the amount of \$60,000 against Defendant;
2. Monetary judgment in favor of Defendant in the amount of \$60,000 against M.W. on Defendant's cross-claim for contribution and/or indemnification; and
3. Monetary judgment in favor of Plaintiff for \$110,000 against M.W.

Then, on August 2, 2023, the Circuit Court for Anne Arundel County entered the following corrections:

1. Monetary judgment in favor of Plaintiff in the amount of \$60,000 against M.W; and
2. Monetary judgment in favor of Defendant in the amount of \$110,000 against M.W.

IV. DISCUSSION

In the complaint, Plaintiff alleges Defendant breached its contractual obligations to her under the uninsured/underinsured motorist provision of the Policy.

The evidence demonstrates that Defendant was first notified of the accident approximately three months after it occurred, on February 4, 2019. At that time, Plaintiff submitted a claim under the PIP coverage of the Policy. The evidence demonstrates that

Defendant promptly handled this portion of the claim, and by letter dated February 19, 2019, Defendant notified Plaintiff that it had paid the maximum \$2,500 benefit available under the medical portion of the PIP coverage. The record also demonstrates that by letter dated November 22, 2019, Defendant received a letter of representation from Plaintiff's attorney indicating that Plaintiff had exercised her rights to preserve all claims that she might have under PIP, MedPay and underinsured/uninsured motorist provisions of her policy. However, it was not until January 24, 2022, that Plaintiff's attorney first submitted a settlement demand letter and supporting records to Defendant under the uninsured/underinsured motorist provision of the Policy. Further, Defendant first received correspondence from Plaintiff's attorney on April 14, 2022 indicating that M.W.'s automobile insurance carrier, Allstate, had agreed to tender its policy limit for the Plaintiff's liability claim for \$50,000. By that time, Plaintiff had filed the above referenced civil complaint filed in the Circuit Court for Anne Arundel County and the matter was in litigation. Then, following a jury trial, the Circuit Court for Anne Arundel County entered judgment in the above referenced civil action on July 11, 2023, with a subsequent correction on August 2, 2023.

Despite the allegations in the Complaint that Defendant breached its contractual obligations under the Policy, Plaintiff offers no evidence that Defendant failed to consider or evaluate the documentation Plaintiff produced by Plaintiff's attorney in the settlement demand or that it failed to make a good faith offer to settle based on its evaluation of Plaintiff's claim.

Based on these findings, Plaintiff has failed to meet her burden to prove that Defendant breached any obligation owed to her under the Policy or that she is entitled to any additional payment under the policy.

V. CONCLUSIONS OF LAW

In accordance with Section 27-1001, the Administration concludes:

1. Plaintiff established by a preponderance of the evidence that Defendant issued an automobile policy obligating Defendant to provide uninsured/underinsured motorist coverage to Plaintiff for injuries arising out of the Claim.
2. Plaintiff did not establish by a preponderance of the evidence that Defendant failed to provide the coverage required under the policy.
3. Plaintiff did not establish by a preponderance of the evidence that she is entitled to additional damages as a result of the claim.
4. Plaintiff did not establish by a preponderance of the evidence that Defendant breached its obligation under the policy to cover and pay the claim.
5. Since a breach is a necessary element of a failure to act in good faith, Plaintiff did not establish a failure by Defendant to act in good faith.
6. Plaintiff is not entitled to expenses and litigation costs.

ORDER

Based on the foregoing findings of fact and conclusions of law, it is

ORDERED on this 28th day of September 2023 that Defendant did not violate Section 27-1001 of the Insurance Article of the Maryland Annotated Code; and it is further

ORDERED that pursuant to Section 27-1001(f)(3), this Final Order shall take effect if no administrative hearing is requested in accordance with Section 27-1001(f)(1).

KATHLEEN A. BIRRANE

Insurance Commissioner

signature on original

Erica J. Bailey

Chief Hearing Officer/Associate Commissioner
Office of Hearings

APPEAL RIGHTS

If a party receives an adverse decision, the party shall have thirty (30) days after the date of service (the date the decision is mailed) of the Administration's decision to request a hearing, which will be referred to the Office of Administrative Hearings for a final decision under Title 10, Subtitle 2 of the State Government Article of the Annotated Code of Maryland. MD. CODE ANN., INS. ART., §27-1001(f).