

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

**MARYLAND INSURANCE
ADMINISTRATION *EX REL.*
P.V. AND R.V.,¹**

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Complainants,

*

v.

*

Case No. MIA-2022-08-016

GEICO CASUALTY COMPANY

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Licensee.

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* * * * *

MEMORANDUM AND FINAL ORDER

Pursuant to §§ 2-204 and 2-214 of the Insurance Article of the Annotated Code of Maryland,² the Undersigned concludes that GEICO Casualty Company (“Licensee”) did not violate §§ 11-230(a) and 11-341 in its decision to increase Complainants’ automobile insurance policy premium. Further, Licensee did not willfully collect a premium or charge for insurance in violation of § 27-216(b)(1)(i).

STATEMENT OF THE CASE

This matter arose from an administrative complaint (“Complaint”) received by the Maryland Insurance Administration (“MIA”) on July 1, 2022. (MIA Exhibit(s) (“MIA Ex.”) 1.) In the Complaint, Complainant alleged that Licensee erred in its increase of Complainants’ automobile insurance policy premium.

After investigating the Complaint, the MIA determined that Licensee had not violated the Maryland Insurance Article and notified the Parties of its findings by letter dated August 1, 2022.

¹ The MIA uses initials to identify a Complainant to protect the privacy of the Parties.

² Unless otherwise noted, all statutory citations are to the Insurance Article of the Annotated Code of Maryland.

(MIA Ex. 6.) Complainant disagreed with this finding and filed a timely request for a hearing.

(MIA Ex. 7.)

ISSUE

The issues presented in this case are: 1) whether Licensee violated §§ 11-230(a) and 11-341 by the percentage premium rate increase they applied to Complainants' automobile insurance policy; and 2) whether Licensee willfully collected a premium or charge for insurance in violation of § 27-216(b)(1)(i).

SUMMARY OF THE EVIDENCE

A. Testimony

A virtual hearing was held on December 15, 2022. Complainant P.V. provided sworn testimony on behalf of Complainants. Licensee was represented by Debra Decker ("Ms. Decker"), Trial Preparation Underwriter. Ms. Decker provided sworn testimony on Licensee's behalf.

B. Exhibits

MIA Exhibits³ (in record)

1. Complaint from Complainant to MIA, received July 1, 2022
2. Correspondence from MIA to Licensee, dated July 5, 2022
3. Response from Licensee to MIA, dated July 15, 2022
4. Correspondence from the MIA to Licensee, dated July 20, 2022
5. Response from Licensee to MIA, dated July 27, 2022
6. Determination Letter from MIA to Complainant, dated August 1, 2022
7. Hearing Request from Complainant to MIA, received August 17, 2022
8. Letter from MIA to the Parties Granting Complainant's Hearing Request, dated August 17, 2022

Complainant's Exhibits *(in record)*

³ At the start of the Hearing, the Parties stipulated to the admission of all of the MIA Exhibits.

1. Exhibit 1 – Summary of Arguments Supporting Complainants’ Contention that Licensee’s automobile premium increase was excessive and arbitrary, including hyperlink to Berkshire Hathaway’s 2018 Shareholder Letter and a screenshot of an email from Licensee dated December 23, 2021, confirming that Licensee added a Multi-line discount to Complainants’ automobile insurance policy with an effective date of 12/24/2021.
2. Exhibit 2 – U.S. Bureau of Labor Statistics, Consumer Price Index News Release dated Tuesday, September 13, 2022

FINDINGS OF FACT

These findings of fact are based upon a complete and thorough review of the entire record in this case, including the hearing transcript and all exhibits and documentation provided by the Parties. The credibility of the witnesses has been assessed based upon the substance of their testimony, their demeanor, and other relevant factors. To the extent that there are any facts in dispute, the following facts are found to be true by a preponderance of the evidence. Citations to particular parts of the record are for ease of reference and are not intended to exclude, and do not exclude, reliance on the entire record.

1. At all relevant times, Licensee held, and currently holds, a Certificate of Authority from the State of Maryland to act as a property and casualty insurer.

2. On December 24, 2021, Licensee issued an automobile insurance policy to Complainants under policy number ending 891998, for a 2011 Toyota Camry and a 2008 Honda Accord EX, (“Policy”).⁴ (MIA Exs. 1 and 3.) The Policy was in force from February 2, 2022 through August 2, 2022. (*Id.*) The total six-month premium amount for the Policy was \$1,017.87. (*Id.*) The Declaration Page of the Policy listed numerous discounts with a total value

⁴ The initial Policy and the renewal also list an additional driver, P.O.V. However, P.O.V. is not a Complainant in this matter.

of \$780.50, including a Multi-Vehicle Discount, Sponsored Marketing, Anti-Lock Brake, Restraint, Persistency, Good Driver, Anti-Theft, and Multiline. (*Id.*)

3. On June 10, 2022, Licensee issued an auto policy bill to Complainants in the amount of \$1,332.21 to renew the Policy. (MIA Ex. 1.) For the renewal period from August 2, 2022 through February 2, 2023, the total six-month premium amount for the Policy was \$1,332.31. (MIA Ex. 3) The Declaration Page of the Policy listed numerous discounts with a total value of \$1,042.46, including a Multi-Vehicle Discount, Sponsored Marketing, Anti-Lock Brake, Restraint, Persistency, Good Driver, Anti-Theft, and Multiline. (*Id.*)

4. On July 1, 2022, Complainants filed a Complaint with the MIA. (MIA Ex. 1.) In the Complaint, Complainants asserted that they purchased an automobile policy with Licensee and that Licensee increased the premium from \$1,017 every six months, to \$1,332. (*Id.*) Further, Complainants asserted that the 30 percent increase was excessive and charged for no apparent reason, as Complainants had no accidents, no moving violations for several years, and Complainants drive their vehicles infrequently, as Complainant P.V. is retired and Complainant R.V. works within two miles of their residence and does not work over the summer. (*Id.*) Accordingly, Complainants contended that the premium increase was unreasonable and requested that their premium should be limited to an increase no higher than the current rate of inflation of 8 percent. (*Id.*) Thereafter, the MIA opened an investigation. (*Id.*)

5. On July 15, 2022, Licensee responded to the Complaint stating that the premium change for the August 2, 2022 renewal was due to SERFF# GECC-133001832 and SERFF# GECC-133256757. (MIA Ex. 3.)

6. On July 14, 2022, Cindy Barnett (“Ms. Barnett”), a representative on behalf of Licensee, attempted to contact Complainants to explain the rate increase on the Policy in detail.

Ms. Barnett left a message for the Complainants and they did not return her call. Licensee made no additional attempts to contact Complainants regarding this matter. (MIA Ex. 3.)

7. With respect to Licensee's filing with the MIA, SERFF# GECC-133001832, the overall premium rate increase of 8.3 percent became effective for all new business policies as of January 25, 2022 and any policy renewals as of March 20, 2022. (Tr. at 14.)

8. With respect to Licensee's filing with the MIA, SERFF# GECC-133256757, the overall premium rate increase of 20.5 percent became effective for all new business policies as of June 9, 2022 and any policy renewals as of August 1, 2022. (Tr. at 14.)

9. At the time of the Complainants' Policy renewal, on August 2, 2022, the Policy experienced both of the Licensee's filed premium rate increases as provided in SERFF# GECC-133001832 and SERFF# GECC-133256757. (Tr. at 15.)

10. Concerning the reason for the increase in the base premium rate charged, Ms. Decker stated that during the COVID 19 pandemic, Licensee paused any planned rate increases, reduced premiums, and paused any policy cancelations for nonpayment. (Tr. at 8.) However, Ms. Decker also stated that "once things started slowly returning to normal ...there was a spike in physical damage losses." (*Id.*) Additionally, Ms. Decker stated that "the losses increased faster than the written premium that was on the books at the time. The higher demand for used vehicles along with a lower supply increased the level of prices for used vehicles by approximately 46.6 percent." (*Id.*) Further, Ms. Decker stated that Licensee uses the law of large numbers to collect premium from all of its insureds. In order to pay for losses that its insureds experience, Ms. Decker stated that Licensee must collect the proper premium to keep pace with the increased costs for the insurance industry. (Tr. at 9.)

11. With respect to individual policyholder characteristics, Ms. Decker stated that Licensee tailors its rates based on each individual insured in order to collect the proper premium to be able to pay for its losses. (Tr. at 9.)

12. By comparison, Complainant P.V. testified at the hearing that “on September 13, 2022, the U.S. Labor, the U.S. Bureau of Labor Statistics reported that motor vehicle insurance went up by 1.3 percent in August on a monthly basis, and 8.7 percent over the past year.” (Tr. at 11.) Further, Complainant P.V. testified that, “our driving history is excellent and we have no claims that would have -- not been zero claims against us for the last many, many, many years, ever since we've been with the GEICO.” (Tr. at 12.) As a consequence, Complainant P.V. testified that, “the rate came as a total surprise, total shock to us. Our behavior, our driving, didn't change whatsoever. We do very little driving.” (Tr. at 11.)

13. On August 1, 2022, the MIA issued a determination letter to Complainant, with a copy to Licensee, stating that the MIA determined that Licensee did not violate Maryland’s insurance laws. (MIA Ex. 6.).

14. Complainant requested a hearing, (MIA Ex. 7), and the hearing request was granted in this matter by letter dated August 17, 2022. (MIA Ex. 8.).

DISCUSSION

A. Positions of the Parties

Complainants assert that Licensee improperly increased their automobile policy premium. Specifically, Complainants assert that they felt deceived based on the 30 percent premium increase, which they believe was excessive, as their risk profile had not changed. Complainants contend that they had no accidents and no moving violations. Further, as P.V. is a retiree and R.V. is a

teacher, they drive their vehicles infrequently. Accordingly, Complainants contend that the premium increase was excessive and arbitrary.

Licensee counter argues that its actions were proper and that it charged the rates on file with the MIA, in compliance with Sections 11-230(a), 11-341, and 27-216(b)(1)(i).

B. Statutory Framework

Section 27–216 (b)(1)(i) of the Insurance Article states, in pertinent part:

(b)(1) A person may not willfully collect a premium or charge for insurance that:

- (i) exceeds or is less than the premium or charge applicable to that insurance under the applicable classifications and rates as filed with and approved by the Commissioner;

* * * *

(LexisNexis 2022.)

Section 11-230 of the Insurance Article states, in pertinent part:

(a) An insurer or officer, insurance producer, or representative of an insurer may not knowingly issue or deliver or knowingly allow the issuance or delivery of a policy or endorsement, certificate, or addition to the policy, except in accordance with the filings that are in effect for the insurer as provided in this subtitle.

* * * *

(LexisNexis 2022.)

Section 11-341 of the Insurance Article states:

An insurer may not make or issue an insurance contract or policy of insurance of a kind to which this subtitle applies, except in accordance with the filings that are in effect for the insurer as provided in this subtitle.

* * * *

(LexisNexis 2022.)

The Complainants, as the party asserting the affirmative on the issue before an administrative body, have the burden of proof in this matter. *Comm'r of Labor & Indus. v.*

Bethlehem Steel Corp., 344 Md. 17, 34 (1996). The burden of proof rests with Complainants to demonstrate by a preponderance of the evidence that a violation of the Insurance Article has occurred. Md. Code Ann., State Gov't § 10-217 (LexisNexis 2022); *Berkshire Life Ins. Co. v. Maryland Ins. Admin.*, 142 Md. App. 628, 672 (2002).

To prove something by a “preponderance of the evidence” means “to prove that something is more likely so than not so” when all of the evidence is considered. *Coleman v. Anne Arundel County Police Dept.*, 369 Md. 108, 125 n. 16 (2002) (quoting the Maryland Pattern Jury Instructions) (*internal citations omitted*). Under this Standard, if the supporting and opposing evidence is evenly balanced on an issue, the finding on that issue must be against the party who bears the burden of proof. (*Id.*)

C. Licensee did not violate §§ 11-230(a), 11-341, or 27-216(b)(1)(i) in its renewal of Complainant’s Policy.

Complainant avers that Licensee violated the Insurance Article with respect to the increase in the premium at the renewal of the Policy. However, the evidence demonstrates that Licensee increased the premium at the renewal of the Policy in a manner consistent with its filed rates with the MIA. Specifically, the evidence demonstrates that the premium change at the renewal of the Policy on August 2, 2022 was due to the following rate filings by Licensee: SERFF# GECC-133001832 and SERFF# GECC-133256757. (MIA Ex. 3.) As Maryland is a “file and use” state, insurers are required to file their rates and rating rules with the MIA. Each insurer must charge the rates that are on file at the time a policy is issued or renewed. While an insurer is not required to have the MIA’s approval at the time it implements the general rate increase, the MIA is charged with reviewing all rate filings to ensure that rates are not inadequate, excessive or discriminatory, pursuant to Section 11-205 (d) of the Insurance Article.

The following principles are given due consideration by the MIA to rates submitted by licensees for review:

- (c) Due consideration shall be given to:
 - (1) past and prospective loss experience within and outside the State;
 - (2) conflagration and catastrophe hazards, if any;
 - (3) past and prospective expenses, both countrywide and those specially applicable to the State;
 - (4) underwriting profits;
 - (5) contingencies;
 - (6) investment income from unearned premium reserve and reserve for losses;
 - (7) dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to policyholders; and
 - (8) all other relevant factors within and outside the State.

§ 11-205(c). Ms. Decker testified that “[f]or each filing, they -- we did put them in place when they were filed as we are allowed, but they have since also been approved. So each of these filings that we have with the Insurance Administration have been approved.” (Tr. at 15-16.)

While Complainants assert that the premium increase was excessive and charged for no apparent reason, as Complainant’s risk profile had not changed, I find that Ms. Decker testified credibly as to the reasoning for the premium increase. Specifically, Ms. Decker stated that after the COVID-19 pandemic started lifting, Licensee experienced increases in their costs. (Tr. at 13.) Further, Licensee had not taken any previously scheduled increases during the pandemic and had lowered its rates. (Tr. at 13-14.) As a consequence, Licensee determined that it needed to adjust its premium rates in order to collect proper premiums and to continue to pay out losses for its insureds. (Tr. at 14.)

Therefore, Licensee’s explanation for its premium rate increases, resulting in an increase in the amount of premium owed at the time the Policy renewed, demonstrates that the rate increases were not arbitrary, capricious, or discriminatory, but instead, the rate increases were reasonably related to the Licensee’s economic and business purposes. The terms arbitrary and

capricious were defined in *Berkshire, supra*, as follows: “The word ‘arbitrary’ means... subject to individual judgment or discretion, and made without adequate determination of principle. The word ‘capricious’ [means]... based on an unpredictable whim.” *Berkshire Life Ins. Co. v. Maryland Ins. Admin.*, 142 Md. App. 628, 671 (2002). Under this standard, no case was made that the rates were applied in an arbitrary or capricious manner. In fact, Ms. Decker testified that the new rates “were applied to all of our policyholders in Maryland, and that those rates were based on our overall increase in losses, the severity of losses, the increased cost of the losses. And again, that was a rate that was applied to all of our insureds.” (Tr. at 18.)

Further, with respect to SERFF# GECC-133001832, the premium rate increase became effective for all policy renewals as of March 20, 2022, with an overall premium rate increase of 8.3 percent. With respect to SERFF# GECC-133256757, the overall rate increase became effective for all policy renewals as of August 1, 2022, with an overall premium rate increase of 20.5 percent. The evidence also demonstrates that the premium charged reflected one vehicle used for pleasure and one vehicle used for commuting purposes, with each vehicle rated based on an annual mileage category of 3000-3999 miles. Accordingly, Licensee properly applied the filed premium rates to Complainants’ renewal Policy, with an effective date of August 2, 2022.

Accordingly, I find that Licensee did not charge Complainant a premium in excess of or less than the rate filing, or knowingly issue or deliver an insurance policy that did not comply with its rate filings. I, therefore, find that Licensee did not violate Sections 11-230(a), 11-341, and 27-216(b)(1)(i) of the Insurance Article.

CONCLUSION OF LAW

Based upon the foregoing Findings of Fact and Discussion, it is found as a matter of law

that Licensee charged a premium for the renewal Policy in accordance with its rate filings with the MIA, and therefore, did not violate Sections 11-230(a), 11-341, and 27-216(b)(1)(i).

FINAL ORDER

IT IS HEREBY ORDERED that the determination issued by the Maryland Insurance Administration is **AFFIRMED**; and it is further

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

It is so **ORDERED** on this 13th day of February, 2023.

KATHLEEN A. BIRRANE
Insurance Commissioner

signature on original

Erica J. Bailey
Chief Hearing Officer, Office of Hearings