

**IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION**

v.

**MARIAMA BALDE
1450 Key Parkway Apt #302
Frederick, Maryland 21702**

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**BEFORE THE MARYLAND
INSURANCE COMMISSIONER**

**CASE NO. : MIA-2016-05-017
Fraud Division File No.: R-2016-2618A**

ORDER

This Order is entered by the Maryland Insurance Administration (“MIA”) against Mariama Balde (“Respondent”) pursuant to §§ 2-108, 2-201, 2-204 and 2-405 of the Insurance Article, Md. Code Ann. (2011 Repl. Vol. & Supp.)(“the Insurance Article”).

I. Facts

1. Respondent was employed by The Ohio State University (“University”) from February 6, 2006 through November 15, 2013. As a University employee, Respondent had disability insurance benefits offered by Unum Life Insurance Company of America (“Unum”), an authorized insurer. The policy inception date was July 1, 2006.

2. The Unum policy paid 60% of the employee’s monthly income while on disability, to a maximum benefit of \$5,000.00 per month. The policy stipulated that if the employee is working during the first 24 months of benefit payments, the benefits will stop and the claim will end if the earnings exceed 80% of the employee’s monthly earnings.

3. On November 15, 2013, Respondent stopped working due to a reported disability. Unum assigned claim #9853788. On February 13, 2014, Unum began paying Respondent \$1,382.16 per month in disability benefit.

4. On July 15, 2015, Unum contacted Respondent and asked whether she had returned to work, and she advised she had not. On September 25, 2015, Unum sent Respondent a “Disability Status Update” form. The form specifically asked, “Are you receiving any other forms of payment such as salary, sick pay, commission, bonuses, or business income whether working or not. [sic]” and “Have you returned to work?” Respondent answered “No” to both questions. Respondent listed a Maryland address on the form. Respondent signed the form following the fraud warning which stated, “Any person who knowingly and with the intent to injure, defraud or deceive an insurance company... is guilty of a crime...”

5. On December 28, 2015, Unum contacted Respondent, and she advised she was working for Community Living, Inc. (“Community”) in Frederick, Maryland, and was receiving a salary.

6. Unum requested Respondent’s paystubs, in order to determine eligibility for continued disability benefits. Respondent provided paystubs which revealed she had been employed by Community since May 2015.

7. Unum referred the matter to its Special Investigations Unit (“SIU”). SIU reviewed the Disability Status Update form and paystubs and concluded that Unum had overpaid Respondent for the time period of August 13, 2015 through December 12, 2015, as her monthly earnings with Community exceeded her monthly earnings with the University.

8. On January 28, 2016, Unum informed Respondent that her claim was closed effective August 13, 2015, and that she owed Unum \$7,948.24 due to her return to work earnings.

9. Section 27-802(a)(1) of the Maryland Insurance Article states,

An authorized insurer, its employees, fund producers, insurance producers, ... who in good faith has cause to believe that insurance fraud has been or is being

committed shall report the suspected insurance fraud in writing to the Commissioner, the Fraud Division, or the appropriate federal, State or local law enforcement authorities.

Unum, having a good faith belief that Respondent committed insurance fraud, referred the matter to the Maryland Insurance Administration, Fraud Division.

10. During the course of its investigation, MIA contacted Unum and confirmed its handling of Respondent's claim.

11. MIA contacted Community on April 18, 2016, and spoke to the Director of Human Resources who verified Respondent was hired on April 24, 2015.

12. On April 12, 2016, MIA interviewed Respondent and she confirmed she told Unum she had not returned to work when in fact she had started a new job. She indicated she will make \$100 a month restitution payments beginning in April 2016.

II. Violation(s)

13. In addition to all relevant sections of the Insurance Article, the Administration relies on the following pertinent sections in finding that Respondent violated Maryland's insurance laws:

14. **§ 27-403**

It is a fraudulent insurance act for a person:

(1) to present or cause to be presented to an insurer documentation or an oral or written statement made in support of a claim...with knowledge that the documentation or statement contains false or misleading information about a matter material to the claim.

15. **§ 27-408(c)**

(1) In addition to any criminal penalties that may be imposed under this section, on a showing by clear and convincing evidence that a violation of this subtitle has occurred, the Commissioner may:

(i) impose an administrative penalty not exceeding \$25,000 for each act of insurance fraud; and

(ii) order restitution to an insurer or self-insured employer of any insurance proceeds paid relating to a fraudulent insurance claim.

(2) In determining the amount of an administrative penalty, the Commissioner shall consider:

- (i) the nature, circumstances, extent, gravity, and number of violations;
- (ii) the degree of culpability of the violator;
- (iii) prior offenses and repeated violations of the violator; and
- (iv) any other matter that the Commissioner considers appropriate and relevant.

16. By the conduct described herein, Respondent violated § 27-403. As such, Respondent is subject to an administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

17. Insurance fraud is a serious violation which harms consumers in that the losses suffered by insurance companies are passed on to consumers in the form of higher premiums. The Commissioner may investigate any complaint that alleges a fraudulent claim has been submitted to an insurer. Insurance Article §§ 2-201(d)(1) and 2-405.

18. Respondent provided false information concerning her return to work status verbally and in writing to fraudulently obtain \$7,948.24 in disability benefits. Having considered the factors set forth in § 27-408(c)(2) and COMAR 31.02.04.02, the MIA has determined that \$2,500.00 is an appropriate penalty.

19. Respondent is ordered to reimburse Unum \$7,948.24 which is the amount she obtained by providing false return to work information in support of her claim.

20. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2016-2618A) and name, (Mariama Balde). Unpaid penalties will be referred to the Central Collections Unit for collection. Payment of the administrative penalty shall be sent to the attention of: Deputy Commissioner, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202.

21. Notification of reimbursement to Unum Life Insurance Company of America shall be made in writing to the Deputy Commissioner, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202. Such notification shall include a copy of the money order or cancelled check issued to Unum Life Insurance Company of America as proof of reimbursement and identify the case by number (R-2016-2618A) and name, (Mariama Balde).

22. This Order does not preclude any potential or pending action by any other person, entity or government authority regarding any conduct by Respondent, including the conduct that is the subject of this Order.

WHEREFORE, for the reasons set forth above, and subject to the right to request a hearing, it is this 12th day of May 2016, **ORDERED** that:

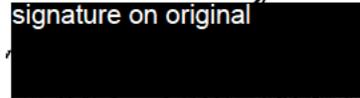
(1) Mariama Balde shall pay an administrative penalty of twenty-five hundred dollars (\$2,500.00) within 30 days of the date of this Order.

(2) Mariama Balde shall pay restitution to Unum Life Insurance Company of America in the amount of seven thousand nine hundred forty-eight dollars and twenty-four cents (\$7,948.24) within 30 days of the date of this Order.

ALFRED W. REDMER, JR.
Insurance Commissioner

signature on original

BY:


NANCY GRODIN
Deputy Commissioner

RIGHT TO REQUEST A HEARING

Pursuant to § 2-210 of the Insurance Article and Code of Maryland Regulations (“COMAR”) 31.02.01.03, an aggrieved person may request a hearing on this Order. This request must be in writing and received by the Commissioner within thirty (30) days of the date of the letter accompanying this Order. However, pursuant to § 2-212 of the Article, the Order shall be stayed pending a hearing only if a demand for hearing is received by the Commissioner within ten (10) days after the Order is issued. The written request for hearing must be addressed to the Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202, Attn: Hearings and Appeals Coordinator. The request shall include the following information: (1) the action or non-action of the Commissioner causing the person requesting the hearing to be aggrieved; (2) the facts related to the incident or incidents about which the person requests the Commissioner to act or not act; and (3) the ultimate relief requested. The failure to request a hearing timely or to appear at a scheduled hearing will result in a waiver of your rights to contest this Order and the Order shall be final on its effective date. Please note that if a hearing is requested on this initial Order, the Commissioner may affirm, modify, or nullify an action taken or impose any penalty or remedy authorized by the Insurance Article against Respondent in a Final Order after hearing.