

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

NANCY WARD
2784 Bishop Hill Road
Chillicothe, Ohio 45601

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BEFORE THE MARYLAND
INSURANCE COMMISSIONER

Case No.: MIA - 2016 - 05 - 031

Fraud Division File No. R-2016-2120A

ORDER

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

I. Facts

1. Respondent was employed as a program Coordinator for The Arc Northern Chesapeake Region (“Arc”).

2. Arc had a self-insured workers compensation program administered by Maryland Association Community Services (“MACS”), an authorized third party administrator (“TPA”). The workers compensation insurance provided benefits to employees for medical expenses and lost wages for work-related injuries.

3. On January 3, 2011, in accordance with Code of Maryland Regulations (“COMAR”) 14.09.02.02, Respondent completed a Workers Compensation Employee’s Claim. It stated that on April 18, 2011, “Wind caught glass storm door and when I tried to catch door from banging into the wall I was injured.” Respondent signed the form, making a claim for compensation for an injury resulting in disability due to an accident in the course of her

employment and certifying that the information was accurate. The Workers Compensation Commission ("Commission") assigned claim number W031735.

4. On January 27 2014, the Commission granted Respondent an "Award of Compensation" following a hearing on January 16, 2014. The Commission found, inter alia, "that the claimant is confined to a wheelchair as a result of the accidental injury to her right leg." The Commission also found that she was disabled in part due to psychological injury.

5. On January 1, 2015, Arc transferred its workers compensation insurance plan from MACS to PMA Management Corporation ("PMA"), an authorized TPA.

6. On June 19, 2015, an anonymous caller notified PMA that Respondent was committing fraud in that she was active, able to walk and did not need a wheelchair. PMA opened an investigation, and contracted with an investigative firm to conduct video surveillance of Respondent. Additionally, PMA scheduled two independent medical examinations ("IME") - one to address Respondent's purported physical limitations and one to address her claim of depression.

7. On November 9, 2015, during a Commission Hearing, Respondent requested an evaluation at a Cleveland, Ohio Pain Management Program. Further, Respondent testified, "I use a wheelchair to get around." ~~When asked whether she can walk, Respondent replied, "I can pivot,"~~ and explained, "I can stand up and pivot around, like use my good leg and turn around like to get in my recliner or get back in my chair, get in bed..."

8. On November 9, 2015, a pain management physician performed an IME of Respondent related to her assertion she had physical limitations. Respondent advised the doctor she is "wheelchair-bound outside of pivoting to get into bed and the shower." The doctor

concluded Respondent's current medication, aside from any psychiatric medications, is "reasonable and necessary in respect to the injury of April 18, 2011."

9. On November 9, 2015, a psychiatrist performed an IME of Respondent related to her assertion she was depressed as a result of the April 18, 2011 work related injury. Respondent advised she "has been confined to a wheelchair since that time," and remains wheelchair bound "because she is unable to bear weight on the right leg."

10. The investigative firm contracted by PMA conducted video surveillance of Respondent while she was in Maryland from November 9 through November 11, 2015. The investigator(s) made observations and video recordings of Respondent walking, standing, sitting, reaching, leaning on both sides of her body and on both legs, and carrying items.

11. On November 22, 2015, PMA presented surveillance footage of Respondent to the pain management doctor who performed the November 9, 2015 IME. After seeing the video, he stated, "It is fairly clear in reviewing this footage that Ms. Ward is not confined to a wheelchair. At the time of my evaluation she reported being completely unable to rise from a seated position with marked limitations on physical examination. Clearly, on the basis of the video provided where she is seen standing and walking with no distress an electric wheelchair (sic) would not be reasonable, necessary or related to the work injury of April 18, 2011."

12. On November 20, 2015, PMA presented surveillance footage of Respondent to the psychiatrist who performed the November 9, 2015 IME. After seeing the video, he stated, "On each day of surveillance, she was observed to be fully ambulatory... without any assistive devices." Furthermore, "This video completely contradicts Ms. Ward's statements that she is unable to lift her leg and bear any weight on her right leg." The doctor went on to say, "My opinion is that the video provides evidence that Ms. Ward is falsely reporting that she is

physically disabled when she is not. This would suggest that any self-report of symptoms or impairment is exaggerated or malingered.”

13. Section 27-802(a)(1) of the 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.

PMA, having a good faith belief that Respondent committed insurance fraud, referred the matter to the MIA, Fraud Division.

14. During the course of its investigation, MIA contacted PMA and confirmed its handling of Respondent’s claim.

15. On March 16, 2016, MIA contacted the pain management doctor who performed the IME on November 9, 2015. He confirmed writing the November 22, 2015 follow-up recited in ¶11 above.

16. On March 24, 2016, MIA contacted the psychiatrist who performed the IME on November 9, 2015. He confirmed writing the November 20, 2015 follow-up as recited in ¶12 above.

~~II. Violation(s)~~

17. 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:

18. § 27-403

It is a fraudulent insurance act for a person:

(2) 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.

19. § 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

* * * * *

(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.

20. By the conduct described herein, Respondent knowingly violated § 27-403. Because the fraudulent insurance act of making a false statement in support of a claim is complete upon making the false statement and is not dependent on payment being made, Respondent violated the law when she made a false statement regarding her workers compensation claim and then subsequently during evaluations and treatment as well as at hearings before the Workers Compensation Commission. As such, she is subject to an administrative penalty under the Insurance Article § 27-408(c).

III. Sanctions

21. 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 that a fraudulent claim has been submitted to an insurer. Insurance Article, §§ 2-201(d) (1) and 2-405.

22. Having considered the factors set forth in § 27-408(c)(2) and COMAR 31.02.04.02, the MIA has determined that \$5,000.00 is an appropriate penalty.

23. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2016-2120A) and name (Nancy Ward). Unpaid penalties will be referred to the Central Collections Unit for collection. Payment of the administrative penalty shall be sent to the attention of: Associate Commissioner, Insurance Fraud Division, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202.

24. 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 26th day of May 2016, **ORDERED** that:

(1) Nancy Ward shall pay an administrative penalty of \$5,000.00 within 30 days of the date of this Order.

ALFRED W. REDMER, JR.
Insurance Commissioner

signature on original

BY:

NANCY GRODIN
Deputy Commissioner

BEFORE THE MARYLAND INSURANCE COMMISSIONER

MARYLAND INSURANCE
ADMINISTRATION

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CASE No.: MIA-2016-05-031

v.

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NANCY WARD

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Fraud Division File No.: R-2016-2120A

Respondent

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CONSENT ORDER

The Maryland Insurance Commissioner ("Commissioner") enters this Consent Order ("Order"), with the consent of Nancy Ward ("Respondent"), pursuant to Md. Ann. Code, Insurance ("Insurance Article"), §§ 2-108, 2-204, and any other applicable sections, as follows:

EXPLANATORY STATEMENT AND FINDINGS OF FACT

1. The Maryland Insurance Administration issued an Order against Respondent on May 26, 2016. In the Order, Respondent was charged with violating Section 27-403 of the Insurance Article. An administrative penalty in the amount of \$5,000.00 was assessed.
2. The facts and violations stated in the Order are incorporated herein by reference.
3. The parties agree to this Consent Order in lieu of a Hearing, and Respondent agrees to pay

an administrative penalty as set forth below.

WHEREFORE, for the reasons set forth above, it is this 18th day of August 2016,

ORDERED by the Commissioner and consented to by Respondent that:

- A. Respondent shall pay an administrative penalty in the amount of \$3,000.00 as follows:
 - i. \$1,000.00 by September 1, 2016;
 - ii. \$1,000.00 by October 1, 2016;
 - iii. \$1,000.00 by December 1, 2016 and

B. Failure to pay as outlined in paragraph A above constitutes a default. Notice of default is hereby waived by Respondent. Respondent agrees to pay the balance owed within 30 days of default. Upon any such default, the full \$5,000.00 penalty as outlined in the original Order will be due, less any amount received. The balance due will be sent to the Central Collection Unit of the Department of Budget and Management.

C. Respondent waives any and all rights to any hearing or judicial review of this Consent Order to which she would otherwise be entitled under the Maryland Annotated Code.

D. Respondent has reviewed this Consent Order and has had the opportunity to have it reviewed by legal counsel of her choice. Respondent is aware of the benefits gained and obligations incurred by the execution of the Consent Order. After careful consideration, Respondent executes this Consent Order knowingly and voluntarily.

E. For the purposes of the Administration and for any subsequent administrative or civil proceedings concerning Respondent, whether related or unrelated to the foregoing paragraphs, and with regard to requests for information about Respondent made under the Maryland Public Information Act, or properly made by governmental agencies, this Consent Order will be kept and maintained in the regular course of business by the Administration. For the purposes of the business of the Administration, the records and publications of the Administration will reflect this Consent Order.

F. This Consent Order shall be effective upon signing by the Commissioner or his designee.

G. This Consent Order does not preclude any potential action by the Administration, any other person, entity, or governmental authority regarding any conduct by Respondent, including the conduct that is the subject of this Consent Order.

H. This Order contains the **ENTIRE AGREEMENT** between the parties relating to the

administrative actions addressed herein. Except as stated in paragraph 3 of this Order, this Consent Order supersedes the Order dated May 26, 2016 and any prior agreements or negotiations, whether oral or written, except as specifically incorporated herein. No time frames set forth herein may be amended or modified without subsequent written agreement of the parties.

ALFRED W. REDMER, JR.
INSURANCE COMMISSIONER

signature on original

By:

STEVE WRIGHT
Associate Commissioner
Fraud Division

NANCY WARD'S CONSENT

Nancy Ward hereby CONSENTS to the representations made in, and terms of, this Consent Order.

signature on original

8/15/2016
Date

NANCY WARD