



Maryland

INSURANCE ADMINISTRATION

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Frequently Asked Questions: **Hearing Rights and Procedures Following a Determination by the** **Maryland Insurance Administration¹**

Question – I filed a complaint with the Maryland Insurance Administration (“MIA”) concerning the actions of an insurance company. I received a letter from the MIA that said that the MIA had concluded its investigation of my complaint, that the insurance company did not violate the law, and that I have a right to a hearing. What do I do now?

Answer – If you disagree with the MIA’s decision, you have the right to request a hearing. Along with the letter, you should have received a Hearing Request Form. If you would like to request a hearing, you may fill out the form, sign it and return it to the MIA, or send a letter to the MIA requesting a hearing. The MIA must receive your request for a hearing no later than 30 days after the date of the MIA’s letter. Your request must explain why you want a hearing, what relief you are seeking, and why you believe you are entitled to that relief. You may also attach any documents that support your complaint.

Question – What if the 30th day is on a Saturday, Sunday, holiday or day that the MIA is closed?

Answer – The 30th day would be considered to fall on the next day that is not a Saturday, Sunday, holiday or day that the MIA is closed.

Question – Do I have to pay a fee if I request a hearing?

¹ This document does not apply to cases where you are protesting the cancellation or nonrenewal of your automobile insurance policy or the amount of an increase to your automobile insurance premium. In those cases, the letter you receive from the MIA will give you the details on how to file your appeal.

Answer – No.

Question – After I send in my request for a hearing, what will happen next?

Answer – The MIA will review the written request for a hearing to make sure:

1. That it was received on time.
2. That it:
 - a. explained why you want a hearing;
 - b. explained what relief you want; and
 - c. explained why you should get that relief.

A hearing will be granted unless:

1. the Insurance Commissioner does not have the authority to hear your case;
2. the request is frivolous or made in bad faith;
3. the request does not contain all the required information;
4. the request is not received on time; or
5. the issue has been resolved.

If your request is not received within 30 days, you will receive a letter denying your request for a hearing. You have the right to appeal the denial of the hearing to a circuit court. The procedure to appeal will be explained in the denial letter.

Question – Where will my hearing be held?

Answer – The Notice of Hearing for your case will tell you where the hearing will be held. Your hearing either will be held at the MIA offices at 200 St. Paul Place, 24th Floor, Baltimore City, Maryland, or at one of the branch offices of the Office of Administrative Hearings (“OAH”), which will be specified on the Notice of Hearing.² Please carefully refer to the Notice of Hearing for the place and time for your hearing. Do not lose your Notice of Hearing because it contains important information that you need. The OAH branch offices are located at:

Administrative Law Building
11101 Gilroy Road
Hunt Valley, MD 21031

Cumberland Office District Court
3 Pershing Street
Cumberland, MD 21502

² Check the Notice of Hearing for your case to determine where the hearing will take place.

W. Paul Martin District Court Multi-Service Center
201 Baptist Street
Salisbury, MD 21801

Wheaton Office
10400 Connecticut Avenue, Suite 208
Kensington, MD 20895

OAH is an independent state agency that was created by the Maryland Legislature to provide an additional forum to resolve contested decisions made by Maryland agencies. OAH's Administrative Law Judges hear cases involving a wide variety of areas of administrative law. The Insurance Commissioner may delegate a contested matter to OAH.

If your hearing is scheduled to take place at OAH, please refer to the following link for additional information: <http://www.oah.maryland.gov/> Please click on the link to "OAH Videos" and view the video labelled "Representing Yourself at an OAH Hearing."

If your hearing is held at the MIA, it will be heard by the Insurance Commissioner, the Deputy Commissioner, the Associate Deputy Commissioner or an Associate Commissioner. If your hearing is heard at one of the OAH locations, it will be heard by an Administrative Law Judge.

Question – Why are some hearings at OAH and not at the MIA?

Answer – The Insurance Commissioner receives a large number of requests for hearings every year and strives to ensure a fair and timely resolution of each hearing. The Insurance Commissioner may hold the hearing or may delegate that responsibility to the Deputy Commissioner, an Associate Deputy Commissioner or an Associate Commissioner. In addition, the Insurance Commissioner may delegate your hearing to OAH to be heard by an Administrative Law Judge.

Questions - Can I choose whether my hearing is held at the MIA or OAH?

Answer - No. The Insurance Commissioner determines whether the case will be heard at the MIA or OAH.

Question – What if I cannot attend the hearing on the date it is scheduled?

Answer – You can request a postponement of your hearing in writing to the hearing officer at **either the MIA or OAH**, depending on where your hearing is scheduled to take place. A postponement may be granted at the hearing officer's discretion **if you ask for it at least 15 days before your hearing**. If you ask to postpone your hearing **less than 15 days before**

the hearing date, it only will be postponed if you show good cause for a postponement. Either way, you should attach documentation and show a good reason to postpone your hearing. Documentation should support the reason that you cannot attend the hearing on the scheduled date, such as a physician's note if there is a medical reason, flight information if you have pre-arranged travel plans, or other proof of a scheduling conflict.

The instructions for requesting a postponement are in the Notice of Hearing that you received. Please carefully review those instructions and make sure that you send your request to the proper address.

Question – Is the hearing accessible to people with disabilities?

Answer – Yes. Please refer to your Notice of Hearing for instructions on whom to contact, depending on whether your hearing is at the MIA or OAH.

Question – What if I need an interpreter?

Answer – An interpreter will be assigned to your hearing, upon request. Please refer to your Notice of Hearing for instructions on whom to contact, depending on whether your hearing is at the MIA or OAH.

Question – Once the hearing is scheduled, am I prevented from settling my case?

Answer – No. You should feel free to discuss settling your case with the other party. If you are able to settle your case, please inform the MIA or OAH in writing, depending on whether your hearing was scheduled to take place at the MIA or OAH.

Question – Do I need to do anything before the hearing?

Answer – Yes.

FOR A CASE AT THE MIA:

If you want witnesses to attend the hearing to testify in your case or to bring documents to your hearing, you must send a written request to the MIA (Attn: Hearings and Appeals Coordinator, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202) to request a subpoena for each witness. You are responsible for serving the subpoena on the witness; the MIA will not serve subpoenas in your case. Please refer to your Notice of Hearing for instructions on requesting a subpoena to require a witness to attend your hearing or to bring documents to the hearing.

In addition, if you want the other party to give documents related to your case to you before the hearing, you may send a Request for Production of

Documents to the other party, with a copy to the Hearings and Appeals Coordinator, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202. Also, you should respond to any Request for Production of Documents that is sent to you by the other party before the hearing. If you fail to do so, you could be barred from, or limited in, using those documents to prove your case at the hearing.

Either party may review the MIA's file before the hearing. Please contact the Hearings and Appeals Coordinator, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, to make arrangements.

FOR A CASE AT OAH:

Please refer to a list of frequently asked questions available on OAH's website at <http://www.oah.state.md.us/faq.asp>. OAH's Administrative Office is at 11101 Gilroy Road, Hunt Valley, MD 21031, and the general telephone numbers are (410) 229-4100 and (800) 388-8805.

Question – Do I need an attorney?

Answer – Although an individual is not required to have an attorney and may represent himself or herself at the hearing, it may be helpful to retain an attorney, since most insurance companies will be represented by an attorney. An individual who chooses not to represent him or herself may only be represented by someone who is licensed to practice law in Maryland.

Under the law, an insurance company must be represented either by an attorney or by an employee of the insurance company who is employed in claims or underwriting. All other corporations must be represented by an attorney.

Question – What happens at the hearing?

Answer – Whether your hearing is at the MIA or OAH, the hearing will start with opening statements from both sides. If, under the law, you must prove that the insurance company violated the Maryland Insurance Article, then you will go first and have the chance to call witnesses and introduce documents. This is your chance to tell your story under oath and to explain what you want to happen. The lawyer representing the insurance company will have a chance to ask questions of you and any witnesses you bring. Once you finish your side of the case, the insurance company may present witnesses. You, or your attorney if you have retained one, will have a chance to ask those witnesses questions. At the end of the hearing, both sides will have a chance to make a closing argument.

Generally, you will have the burden to prove your case at the hearing. The insurer will have the burden of proof only in cases where the statute

or regulation at issue specifically gives the burden of proof to the insurance company.

Question – What happens if I do not attend the hearing?

Answer – The hearing may proceed without you or a default order may be entered against you. A default means that the decision will be against you and in favor of the insurance company.

Question – Will a decision be made at the time of the hearing?

Answer – A decision is not usually made at the time of the hearing, unless it is a default order, which may be made at the time of the hearing. Generally, you will receive a written decision within 30 days after the hearing.

Question – What if I disagree with the decision?

Answer – If your hearing took place at OAH, you will have an opportunity to file exceptions. Please refer to the Proposed Decision that you receive from OAH for instructions on how to file an exception and how to order a transcript of the hearing if that is something you would like to do.

If your hearing took place at the MIA, then the Commissioner's decision is final and you have the right to appeal the decision to a circuit court. Your right to appeal will be explained to you in the written decision and is referred to as a right to file a petition for judicial review.

If you did not appear at the hearing, the hearing officer or Administrative Law Judge may enter a default order finding that your Complaint is denied and the MIA's decision is affirmed. The default order will be sent to you by certified mail after it is entered. If you disagree with the default order, then there are special instructions that you must follow to seek to get the default order vacated or modified. These instructions are included in the default order.