

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

EBONY FLETCHER
10573 Campus Way, South
Largo, Maryland 20774

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BEFORE THE MARYLAND
INSURANCE COMMISSIONER

CASE NO. : MIA-2019-07-005

Fraud Division File No.: R- 2019-2828A

AMENDED ORDER

This Amended Order is entered by the Maryland Insurance Administration (the “MIA”) against Ebony Fletcher, (“Respondent”) pursuant to §§ 2-108, 2-201, 2-204 and 2-405 of the Insurance Article, Md. Code Ann. (2017 Repl. Vol. & Supp.)(the “Insurance Article”).

I. Facts

1. Respondent was a named insured on an automobile insurance policy issued by Brethren Mutual Insurance Company, (“Brethren”), an authorized insurer. The policy was in effect from December 1, 2017 through December 1, 2018. Respondent’s insurance policy afforded her Personal Injury Protection (“PIP”) coverage, a component of the policy, which covered medical expenses and lost wages, in the event of a loss.
2. On August 20, 2018, Respondent rented a 2017 Nissan from Enterprise Rental Car Agency (“Enterprise”). Respondent’s Brethren insurance policy extended insurance coverage to cars rented by Respondent.
3. On November 12, 2018, Enterprise notified Brethren that Respondent was operating one of its rental cars on August 20, 2018, when it was damaged following a motor vehicle accident. Brethren opened a claim, and issued payment to Enterprise for damage to its rental car, minus Respondent’s deductible.

4. On December 28, 2018, Respondent contacted Brethren to inquire about her deductible. Respondent also requested a PIP benefits application, which Brethren sent to Respondent.

5. On or about January 2, 2019, Respondent returned the PIP application to Brethren, which stated that as a result of injuries sustained in the August 20, 2018 accident, she missed work on August 21, 2018, returned to work on August 30, 2018, and lost \$1,140.00 in wages. Respondent signed the PIP application, which contained the following fraud warning: "Any person who knowingly and with intent to defraud any insurance company or other person, files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent Insurance act which is a crime and subjects such person to criminal and civil penalties."

6. On January 3, 2019, Brethren sent a letter to Respondent, along with a Wage and Salary Verification form ("lost wages form") and requested that Respondent forward it to her employer to complete. Subsequently, Respondent returned the lost wages form to Brethren, which was signed by a payroll representative for her employer, and stated that Respondent was absent from work on "8/29 8/30 – 8/31 – 9/6 - 9/11 9/13 – 9/14" [sic]. The dates absent from work were contrary to Respondent's PIP application, which stated that she returned to work on August 30, 2019.

7. On January 11, 2019, Respondent sent an email to Brethren confirming that she emailed Brethren's representative disability information. On January 14, 2019, Respondent sent additional emails to Brethren, in which she specifically stated, "I've also emailed you regarding the work slip..." "[W]hat about my days off? I've emailed you the forms," and "...Can you please let me know if you're addressing the forms w/ [sic] my work leave? Along with the application for lost-pay?".

8. On January 25, 2019, in light of discrepancies between Respondent's PIP application and the lost wages form, Brethren contacted Respondent's employer's payroll

manager who provided Brethren with Respondent's time and attendance records, which revealed Respondent had not missed work following the August 21, 2018 accident.

9. On January 29, 2019, Brethren sent Respondent a letter denying her claim, which stated,

“After review of your completed PIP application, the wage & salary verification and information obtained from your employer, we must respectfully decline any payment for lost wages.”

10. Section 27-802(a)(1) of the Maryland Insurance Article states:

An authorized insurer, its employees, fund producers, or 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.

Brethren, having a good faith belief that Respondent committed insurance fraud, referred Respondent's claim to the MIA's, Fraud Division.

11. In the course of its investigation, the MIA contacted Brethren and confirmed the facts regarding its handling of the Respondent's claim.

12. On May 28, 2019, an MIA investigator reviewed the time and attendance records provided by Respondent's employer, which confirmed Respondent did not miss any time from work as a result of her accident. In addition, the MIA investigator contacted the payroll manager for Respondent's employer who advised that Respondent had worked every day since the August 21, 2018 accident.

13. On July 2, 2019, the Administration issued an Order against Respondent. On August 6, 2019, Respondent timely requested a hearing, which is scheduled for December 10, 2019.

II. Violation(s)

14. Based on the foregoing and considering all relevant sections of the Insurance Article, the Administration finds that Respondent violated Maryland's Insurance Article as follows:

15. § 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[.]

16. § 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.

17. By the conduct described herein, Respondent knowingly violated § 27-403. The fraudulent insurance act of submitting a false document in support of a claim is complete upon submission of the false document and is not dependent on payment being made; Respondent committed a violation of the Insurance Article when she submitted a false document to Brethren. As such, Respondent is, therefore subject to an administrative penalty pursuant to § 27-408(c) of the Insurance Article .

III. Sanctions

18. 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.

19. Having considered the factors set forth in §27-408(c)(2) the MIA has determined that \$1,500.00 is an appropriate penalty.

20. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2019-2828A) and name Ebony Fletcher). 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. Unpaid penalties will be referred to the Central Collections Unit for collection.

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

WHEREFORE, for the reasons set forth above, and subject to the right to request a hearing, it is this 9th day of October 2019, **ORDERED** that:

Ebony Fletcher shall pay an administrative penalty of fifteen hundred dollars, (\$1,500.00) within 30 days of the date of this Amended Order.

ALFRED W. REDMER, JR.
Insurance Commissioner

signature on original

BY: _____

STEVE WRIGHT
Associate Commissioner
Insurance Fraud Division

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 Amended Order. This request must be in writing and received by the Commissioner within thirty (30) days of the date of the letter accompanying this Amended 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 Amended Order is served. 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 Amended Order and the Amended Order shall be final on its effective date. Please note that if a hearing is requested on this Amended Order, the Commissioner may affirm, modify, or nullify an action taken or impose any penalty or remedy authorized by the Insurance Article against the Respondent in a Final Order after hearing.