

MARYLAND INSURANCE ADMINISTRATION

MARYLAND INSURANCE	*	REVIEW OF A RECOMMENDED
ADMINISTRATION	*	DECISION ISSUED BY
<i>EX REL. C.C.</i> ¹	*	MARY PEZZULA
Complainant	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE OF
PROGRESSEIVE SELECT	*	ADMINISTRATIVE HEARINGS,
INSURANCE COMPANY,	*	OAH No.: MIA-CC-33-23-09923
Licensee	*	MIA No.: MIA 2022-12-017
* * * * *		

FINAL ORDER

As a consequence of the Complainant’s failure to file a response to the Proposed Default Order in the above-captioned case, it is hereby, ORDERED that the attached Proposed Default Order by Administrative Law Judge (“ALJ”) Pezzula is approved by the Maryland Insurance Commissioner.

THEREFORE, it is hereby

ORDERED that the Proposed Default Order and legal analysis of ALJ Pezzua be adopted as the Commissioner’s Final Order, and it is further

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

It is so **ORDERED** this 4th day of August, 2023.

¹ To protect complainant’s privacy, the Maryland Insurance Administration now uses initials to identify complainants.

KATHLEEN A. BIRRANE

Commissioner

signature on original

ERICA J. BAILEY

Associate Commissioner for Hearings

MARYLAND INSURANCE
ADMINISTRATION, *EX REL.* C.C.,¹
COMPLAINANT
v.
PROGRESSIVE SELECT INSURANCE
COMPANY,
LICENSEE

* BEFORE MARY PEZZULLA,
* ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
*
* OAH No.: MIA-CC-33-23-09923
* MIA No.: MIA-2022-12-017

* * * * *

PROPOSED DEFAULT ORDER

On January 23, 2022, C.C. (Complainant), filed a complaint with the Maryland Insurance Administration (MIA) asserting that Progressive Select Insurance Company (Licensee) erred in its cancellation of his automobile policy. After investigating the complaint, the MIA notified the Complainant, on or about April 19, 2022, that it determined that the Licensee did not err in its cancellation of his automobile policy. On May 19, 2022, the Complainant requested a hearing to contest the MIA's determination. On April 4, 2023, the MIA transmitted the matter to the Office of Administrative Hearings (OAH) to hold a contested case hearing and issue a proposed decision.²

On April 19, 2023, the OAH sent a Notice of Hearing (Notice) to the Complainant by United States Postal Service (USPS) mail, which was sent to the Complainant's address on record with the OAH.³ COMAR 28.02.01.05C(1). The Notice stated that a hearing was scheduled for

¹ The Complainant is identified by initials only to preserve the confidentiality of the proceeding.

² Under the relevant statute and regulations, the Insurance Commissioner may, on a case-by-case basis, delegate to the OAH the authority to issue: (a) proposed or final findings of fact; (b) proposed or final conclusions of law; (c) proposed or final findings of fact and conclusions of law; or (d) a proposed or final order. Md. Code Ann., State Gov't § 10-205(b) (2021); Code of Maryland Regulations (COMAR) 31.02.01.04-1A(2).

³ The Complainant's address was provided by the MIA on the transmittal that accompanied the Complainant's request for a hearing.

June 14, 2023, at 1:00 p.m., at the OAH in Hunt Valley, Maryland. The Notice further advised the Complainant that “failure to appear may result in a dismissal of your case or a decision against you.”

The USPS did not return the letter to the OAH as undeliverable. The Complainant did not notify the OAH of any change of mailing address. COMAR 28.02.01.03E. Under these circumstances, I find the Complainant received proper notice of the hearing. *See Maryland State Bd. of Nursing v. Sesay*, 224 Md. App. 432, 448 (2015) (“Generally, notice by mail is presumed to provide constitutionally sufficient notice.”); *see also* Md. Code Ann., State Gov’t § 10-208 (2021). In addition, the Complainant did not request a postponement of the matter. *See* COMAR 28.02.01.16.

On June 14, 2023, at 1:00 p.m., I convened the hearing as scheduled. Andrew Schmickley, Esquire, appeared on behalf of the Licensee. The Complainant was not present for the hearing at the scheduled time, and no one was present on his behalf. After waiting more than fifteen minutes past the scheduled hearing time, during which time neither the Complainant nor anyone representing him appeared, the Licensee made a Motion for Default against the Complainant. I took the Motion for Default under advisement, with a proposed written decision to follow.

The OAH Rules of Procedure are applicable to this proceeding. COMAR 28.02.01.01A; COMAR 31.02.01.01B. Those rules contemplate the issuance of a default order when a party fails to appear, stating:

If, after receiving proper notice . . . a party fails to attend or participate, either personally or through a representative, in a prehearing conference, hearing, or other stage of a proceeding, the [Administrative Law Judge] may proceed in that party’s absence or may, in accordance with the hearing authority delegated by the agency, issue a final or proposed default order against the defaulting party.

COMAR 28.02.01.23A; *see also* COMAR 31.02.01.10. The Complainant received proper notice of the hearing but failed to appear. Accordingly, I will grant the Licensee's Motion for Default.

THEREFORE, I PROPOSE the following:

1. The Complainant is found in **DEFAULT**;
2. The MIA's determination that the Licensee did not violate Maryland insurance law is **UPHELD**;
3. All further proceedings in this matter are **TERMINATED** and a disposition of **DISMISSAL** is entered in this case;
4. The Complainant, or his representative may, within fifteen (15) days, file a written motion to modify or vacate this Proposed Default Order with the Hearing and Appeals Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202. The written motion must state the grounds for the request. COMAR 28.02.01.23D; COMAR 31.02.01.09-1B(4); COMAR 31.02.01.10G. If good cause is not shown to excuse the default, the Proposed Default Order will be affirmed as the final order, and the denial of the complaint against the Licensee will stand. COMAR 31.02.01.10H(2); and
5. Any motion requesting that the Proposed Default Order be vacated or modified must include a certificate of service indicating that a copy of the written motion was mailed, postage prepaid, to the Licensee's attorney: Andrew Schmickley, Esquire, Progressive House Counsel, 841 Cromwell Park Drive, Suite 200, Glen Burnie, Maryland 21061.

June 15, 2023
Date Order Mailed

MP/emh
#205715

signature on original

Mary Pezzulla
Administrative Law Judge

Copies Mailed To:

Complainant

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154 Linden Pl
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