



# **Complaint Hearings at the Maryland Insurance Administration**

Joy Hatchette  
Associate Commissioner  
Consumer Education & Advocacy  
September 2011



# Who Has The Right To A Hearing



- 
- Section 2-210(a)(2) of the Insurance Article provides:

(2) The Commissioner **shall** hold a hearing:

(i) if required by any provision of this article; or

(ii) **on written demand** by a person **aggrieved by any act** of, threatened act of, or failure to act by the Commissioner or by any report, regulation, or order of the Commissioner, except an order to hold a hearing or an order resulting from a hearing.



# Demand for Hearing

---

## ■ Must:

- Be in writing
- State the grounds for relief
- Be received by the Commissioner within 30 days of the “act” by the Commissioner



# Complaint Hearings

---

- If the determination letter finds that either the carrier violated or did not violate the law, the aggrieved person is given the right to request a hearing within 30 days of the determination letter.



- 
- If a timely request for a hearing is received, the investigator will send a letter to the party requesting the hearing indicating that the hearing request has been granted.



- 
- All documents that are a part of the complaint file are prepared for the hearing.



# Administrative Hearings





# What is an Administrative Hearing?

---

- A fair, impartial and independent opportunity to be heard on the issues in question.
- The Hearing Officer determines facts, based on the evidence and argument presented at the hearing.
- The Hearing Officer issues a decision on the issues presented.



# Assignment of Cases



# Assignment of Hearings

---

- Insurance Commissioner may assign case to:
  - Office of Administrative Hearings (OAH)
  - MIA Hearing Officer
  
- Cases sent to OAH may be sent for preliminary determination or for final.
  
- Both parties will receive notice of the place, time and date of the hearing.



# The Hearing Process



# Hearing Procedure

---

- The hearing may be held by telephone or video conference.
- Individual witnesses may “appear” via telephone.
- Hearings are recorded by a court reporter.
- All witnesses are sworn in before testifying.
- Interpreter will be provided if necessary.



- 
- Party with the burden of proof goes first.
    - Typically complaining party has the burden of proof.
    - Company has the burden of proof in cancellation and nonrenewal cases. Section 27-501(g).



# Progress of a Hearing

---

- Opening statement
- Moving party's witnesses
  - Direct
  - Cross examination
  - Redirect
- Responding party's witnesses
  - Direct
  - Cross examination
  - Redirect
- Closing statement



---

## ■ Representation by Counsel

- An individual or company is not required to have an attorney.
- If you choose to be represented, the representative must be an attorney.

## ■ Documents and other evidence

- Not limited to information in investigative file.





# Burden of Proof

---

- “Preponderance of the evidence” i.e. more convincing evidence.
  - Probable truth or accuracy.
  - Not measure by amount of evidence; e.g. one knowledgeable witness may provide a preponderance of evidence over many witnesses with hazy memories.
- Lesser standard than "beyond a reasonable doubt" required in criminal cases.



# Statutes and Regulations

---

- Insurance Article Sections 2-201 through 2-215
- COMAR 31.02.01
- Hearings before OAH - Rules of Procedure at COMAR 28.02.01



# The Numbers



# Hearings Requested

---

## ■ Property & Casualty

### □ Auto Protest

- FY 2009 – 115 (5356 Complaints Received)
- FY 2010 – 112 (5328 Complaints Received)
- FY 2011 – 114 (5005 Complaints Received)

### □ P&C General

- FY 2009 – 131 (1992 Complaints Received)
- FY 2010 – 123 (2183 Complaints Received)
- FY 2011 – 201 (2816 Complaints Received)



---

## ■ Life & Health

- FY 2009 – 48 (4091 Complaints Received)
- FY 2010 – 65 (3995 Complaints Received)
- FY 2011 – 48 (3875 Complaints Received)

## ■ Appeals & Grievances

- FY 2009 – 28 (912 Complaints Received)
- FY 2010 – 20 (816 Complaints Received)
- FY 2011 – 18 (763 Complaints Received)