Circuit Court for Baltimore County
Case No. C-03-CV-21-003613

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 489

September Term, 2022

IN THE MATTER OF CHYRDONNA DEAN

Nazarian,
Shaw,
Kenney, James A., III,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: November 14, 2023

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

This appeal arises from a petition for judicial review filed by Chyrdonna Dean against the Maryland Insurance Administration ("MIA" or the "Administration") in the Circuit Court for Baltimore County. In 2018, after her insurance company denied her claim for water damage to her property, Ms. Dean filed a complaint with the Administration. In 2019, the Administration determined that the insurer had complied with the Insurance Article and sent her a letter denying her complaint. Ms. Dean had thirty days from the day of the determination letter to submit a request for a hearing to challenge the determination, but she didn't do so.

In 2021, Ms. Dean filed a second complaint with the Administration against the same insurance company, and this second complaint raised issues similar to the first. The Administration declined to open a new investigation into Ms. Dean's second complaint based on its resolution of her first complaint. She requested a hearing, and the Administration denied Ms. Dean's hearing request as untimely, citing the earlier determination letter. On judicial review, the circuit court agreed with the Administration that Ms. Dean was not entitled to a hearing. We agree as well and affirm the judgment.

I. BACKGROUND

In April 2018, a tenant who resided in Ms. Dean's property in Baltimore County caused a kitchen fire and damaged the unit. At the time, Ms. Dean maintained a rental property insurance policy with the United States Automobile Association ("USAA"). The policy provided coverage for "sudden and accidental direct physical loss" to the property.

Ms. Dean accepted USAA's referral and hired Service Master by Singer ("SMS") to clean and repair the unit, and USAA issued payments to Ms. Dean and SMS for the repair costs.

In June 2018, Ms. Dean asked USAA to terminate SMS's services because she was dissatisfied with the project's progression. During the repair period, water flooded Ms. Dean's basement and caused additional damage. According to Ms. Dean, SMS failed to replace a sump pump properly, which caused water to overflow. In August 2018, Ms. Dean informed USAA of the overflow and expressed her belief that SMS caused it. According to USAA, SMS informed it in August 2018 that an unknown party had bumped into the pipe and damaged the sump pump.[1] SMS claimed no responsibility for the incident and explained that it didn't know which party caused the damage because multiple contractors worked on the property at the time.

In September 2018, USAA determined that SMS had not contributed to the sump pump failure and it refused to issue payments to Ms. Dean for the water damage because other contractors hired by Ms. Dean also were present on the property when the damage to the sump pump could have occurred. Ms. Dean requested photos of other contractors on her property and photos of the sump pump taken before and after SMS's service from USAA, but says she did not receive them.

A. MIA Investigation.

On September 18, 2018, Ms. Dean filed a complaint ("first complaint") with the Administration and sought "all information, communication and pictures" related to her

[1] USAA provided the same information to Ms. Dean by email.

claims to recover the fire and subsequent water damage to her property from USAA. Her complaint alleged that USAA had refused to cover the water damage, described her interactions with USAA and SMS, and disputed SMS's claim that other contractors accessed Ms. Dean's property and could have damaged the sump pump.

On May 13, 2019, the Administration sent a letter to Ms. Dean notifying her that it had provided her the records she requested. On June 19, 2019, Ms. Dean replied that she had received only records related to the fire damage, not the water damage. Ms. Dean stated in her response that her letter would serve as a complaint against USAA's handling of her claim and asked the Administration to help her acquire the information she needed relating to the water damage from USAA.

On September 13, 2019, the MIA sent Ms. Dean a determination letter that denied her complaint. The determination letter concluded that USAA had not violated Maryland Insurance law in its handling of her claim. The letter also advised Ms. Dean that she had the right to request a hearing to challenge the result of the determination by making a written request within thirty days of that date:

> This determination is subject to your right to a hearing . . . . To request a hearing, you must do so in writing and the request must be received by the Insurance Administration within (30) thirty days of the date of the letter. . . . Attached please find a copy of the COMAR Regulation that addresses your right to a hearing. If a hearing is not timely requested, this determination will be final.

The letter attached the relevant statutes and regulations that describe petitioners' rights and responsibilities when requesting hearings, and it included a copy of the Administration's Hearing Request Form.

On September 17, 2019, Ms. Dean sent a letter to the Administration acknowledging receipt of the determination letter and asking it to correct three statements in it.[2] She did not submit a hearing request to the Administration within thirty days of the determination letter.

Two years later, on September 21, 2021, Ms. Dean submitted a second complaint against USAA to the Administration (the "2021 complaint"). This complaint raised the same core allegations as the first complaint, and Ms. Dean disputed again that contractors other than SMS caused the water damage to her property. On October 1, 2021, the Administration replied that (1) Ms. Dean's 2021 complaint arose from the "same claim circumstances" as her first complaint, and the Administration had issued a determination on that complaint after a full investigation, (2) the Administration would close the 2021 complaint without further action, and (3) since Ms. Dean hadn't requested a hearing to challenge the determination on the first complaint, that determination was final.

Ms. Dean responded that (1) she "could not find a copy" of the Administration's 2019 determination letter, (2) she disagreed with the Administration's finding that her 2021 complaint arose from the same circumstances as her first complaint because the new

[2] Ms. Dean began her response letter with "I am in receipt of your letter dated September 13, 2019 . . . ."

complaint emphasized the issue regarding USAA's contention that contractors other than SMS caused the water damage to her property, and (3) she requested a hearing on her 2021 complaint if the Administration refused to investigate it.

The MIA replied that (1) it declined to reopen her first complaint or establish a new investigation, (2) her hearing request was untimely because she failed to submit it within thirty days of the 2019 determination letter, and (3) Ms. Dean could seek judicial review of the Administration's decision in the circuit court.

B. The Circuit Court Proceedings.

On November 1, 2021, Ms. Dean filed a petition for judicial review in the circuit court challenging the Administration's decision to deny her hearing request. She asked the circuit court to (1) order the Administration to provide her with all records related to USAA's contention that contractors other than SMS damaged the sump pump on her property, (2) hold a hearing to discuss the Administration's handling of her claim, and (3) order the Administration to pay "court fees."

The Administration responded with a motion to dismiss. *First*, the Administration argued that Ms. Dean could not request an administrative hearing at that point because she had failed to submit a hearing request within thirty days of the determination, as required by Maryland Code (1995, 2017 Repl. Vol.), § 2-215 of the Insurance Article ("IN"). *Second*, the Administration contended that Ms. Dean's request for a hearing on the Administration's handling of her complaint was an impermissible collateral complaint

against the agency's deliberative process. *Third*, the Administration asserted that it had produced all related records in its possession.

On April 25, 2022, the circuit court held a hearing on the motion to dismiss, and on May 6, 2022, granted the Administration's motion. The circuit court found that Ms. Dean's hearing request was untimely because she had failed to submit it within thirty days of receiving the Administration's determination letter in 2019, and that this complaint sought to address the same subject matter as her first complaint. The court held as well that Ms. Dean's collateral attack against the Administration's 2019 determination was impermissible, that no evidence suggested that the Administration had not made available to Ms. Dean all records in its possession, and that Ms. Dean could not recover costs from the Administration. Ms. Dean filed a timely notice of appeal.

II. DISCUSSION

This appeal presents one issue for our review: [3] whether the Administration rejected Ms. Dean's request for a hearing properly. Ms. Dean argues that the court should have

[3] Ms. Dean phrased her Question Presented as follows:

> Appellant requested a De Novo Hearing, lowered her claim amount to meet the standard of a De Novo Hearing, paid for a De Novo Hearing, did not need transcripts for the De Novo Hearing, received approval for a De Novo Hearing, but did not have a De Novo Hearing. The question is will the court schedule a De Novo hearing?

Ms. Dean argued that she should have a *de novo* hearing because she received a Notice of De Novo Appeal from the Circuit Court for Baltimore County. We note, though, that the Notice of Docketing of De Novo Appeal and other related court documents attached at the end of her brief belong to another case, *Chydonna Dean v. Servicemaster by*

Continued . . .

granted her a hearing because she did not receive the attachments to the Administration's September 13, 2019, determination letter, which included the hearing request form and a copy of COMAR 31.02.01.03, the regulation defining petitioners' rights to request a hearing. Ms. Dean argues as well that the Administration found improperly that her complaints filed in 2021 and 2019 were the same, noting that she submitted them to different offices within the Administration. We disagree.

An aggrieved petition may seek judicial review of "a refusal by the Commissioner to grant a hearing." IN § 2-215(a)(2). When reviewing an administrative decision, we perform the same function as the circuit court and review the agency decision itself rather than reconsidering the circuit court's decision. *Wisniewski v. DOL, Licensing & Regul.*, 117 Md. App. 506, 515–16 (1997). We can reverse or modify the decision of the Commissioner if the administrative decision is affected by an error of law or is "unsupported by competent, material, and substantial evidence when considering the entire record." IN § 2-215(h)(3)(v). In this case, we find no such error.

We *first* consider Ms. Dean's contention that she didn't receive notice of her right to request a hearing along with the determination letter of her first complaint. The Administration must serve its order or notice on a person, *see* IN § 2-204(c), and the

Singer, Inc., C-03-CV-21-3151. We limit our review to the case before us, case number C-03-CV-21-3613.

The MIA phrased its Question Presented as follows: "Did the Maryland Insurance Administration properly deny Ms. Dean's request for an administrative hearing that was submitted nearly two years after expiration of the applicable deadline?"

Administration argues here that it fulfilled this requirement with respect to its 2019 determination letter. Under the substantial evidence test, we uphold the agency's factual finding if "'a reasonable mind might accept [it] as adequate to support a conclusion.'" *See Maryland Shipbuilding & Drydock Co. v. Md. Comm'n on Human Rels.*, 70 Md. App. 538, 551 (1987) (*quoting Snowden v. Baltimore*, 224 Md. 443, 448 (1961)). We don't attempt to make independent fact findings or substitute the agency's judgment of the weight of evidence with our own. *See State Ins. Comm'r v. Nat'l Bureau of Cas. Underwriters*, 248 Md. 292, 310 (1967). And we review an agency's decision in the light most favorable to the agency since the decisions made by administrative agencies are *prima facie* correct and carry the presumption of validity. *See Courtney v. Bd. of Trs.*, 285 Md. 356, 362 (1979).

The record reveals that the Administration in fact notified Ms. Dean that she needed to submit a hearing request before the statutory deadline if she wanted to challenge the determination. The determination letter the Administration sent on September 13, 2019 informed Ms. Dean that she had the right to request a hearing to challenge the Commissioner's decision, and it was her responsibility to deliver the request within thirty days of the date of the letter. The determination letter advised her that "[if] a hearing is not timely requested, [the] determination will be final." And the record also supports the finding that Ms. Dean received the determination: on September 17, 2019, she responded to the determination letter with a letter that began "I am in receipt of your letter dated September 13, 2019 . . . ."

We don't disturb an administrative agency's findings of fact if a reasonable mind could determine that the evidence on which the agency relied could reasonably support the agency's conclusions. *See Md. Shipbuilding & Drydock Co.*, 70 Md. App. at 551. And in this case, a reasonable mind readily could conclude that the Administration notified Ms. Dean of her right to request a hearing.

Next, we consider whether the Administration may refuse to investigate or hold a hearing on a duplicative complaint. The Administration found that Ms. Dean's 2021 complaint arose from the "same claim circumstances" as her first complaint, which the Administration already had investigated and denied. Ms. Dean claimed in her correspondence with the Administration that her 2021 complaint differed from the first complaint because it emphasized the issue regarding USAA's contention that some contractors other than SMS caused the water damage to her property. But the first complaint disputed SMS's claim suggesting other contractors accessed Ms. Dean's property and could have damaged the sump pump, and the record reveals that the Administration considered this issue in denying her first complaint. In its 2019 determination letter, the Administration discussed the "multiple contractors in the house" and USAA's finding that SMS had not contributed to the sump pump failure. We agree with the Administration that Ms. Dean's 2021 complaint failed to assert any meaningful new fact or issue beyond those raised and rejected in her first complaint.

The Insurance Commissioner has the implied power to reject duplicative complaints. COMAR 31.16.10.02(B)(5)(a) defines "complaint" as "any written

communication received by the Commissioner that expresses dissatisfaction with a carrier" and states that the Commissioner *shall* begin a complaint investigation whenever they receive a complaint. COMAR 31.16.10.03(A) ("upon receipt of a complaint, the Commissioner shall begin a complaint investigation"). But COMAR 31.02.01.03(C)–(E) establishes a deadline for petitioners to deliver hearing requests and allows the Commissioner to deny a hearing when the petitioner makes an untimely request.[4] We review "each provision in the context of the regulatory scheme to ensure that 'no word, clause, sentence, or phrase is rendered surplusage, superfluous, meaningless, or nugatory.'" *Board of Liquor License Comm'rs v. Kougl*, 451 Md. 507, 521 (2017) (*quoting In re Kaela*

[4] According to COMAR 31.02.01.03(C)–(E):

> Request [for a Hearing] to be Received Within 30 Days.
>
> (1) The request shall be received by the Commissioner within 30 days of the date of the letter notifying the party of the Commissioner's action, intention to act, or failure to act.
>
> * * *
>
> Upon receipt of a proper request, the Commissioner shall grant a hearing unless:
>
> (1) In viewing the facts set forth by the person making the request, in the light most favorable to that person, the Commissioner has no authority to take action;
>
> (2) The Commissioner determines that the request is frivolous or made in bad faith;
>
> (3) The request does not contain the information required by these regulations;
>
> (4) The request is untimely; or
>
> (5) At the end of the Commissioner's review, the request is moot.

C., 394 Md. 432, 467 (2006)). We must also avoid interpretations of the statutory language that lead to illogical or unreasonable results. *Elsberry v. Stanley Martin Cos., LLC*, 482 Md. 159, 180 (2022). And read together, the regulations give the Commissioner the power to deny duplicative complaints filed after the hearing request submission deadline. *See* IN § 2-108 ("the Commissioner . . . has the powers and authority expressly conferred on the Commissioner by or reasonably implied from this article").

We affirm the Administration's decision to reject Ms. Dean's 2021 complaint. The record supports the finding that the 2021 complaint presented the same claim circumstances as Ms. Dean's first complaint had. Ms. Dean was entitled to a hearing only with regard to her first complaint, and because she didn't request a hearing until October 4, 2021, long after the thirty day deadline, the Administration did not err in denying her a hearing on timeliness grounds.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. APPELLANT TO PAY COSTS.