

Circuit Court for Baltimore City
Case No.: 24-C-23-000299

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 0625

September Term, 2023

IN THE MATTER OF CAROL MOSCA

Reed,
Albright,
Raker, Irma S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: March 11, 2026

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

This appeal concerns the timeliness of Appellant Carol Mosca’s petition for judicial review after the Appellee, Maryland Insurance Administration (“the Administration”), denied her request for an administrative hearing. The controversy stems from a disagreement over when Mosca’s request for an administrative hearing was denied. That date is significant because it is from that date she had thirty days to seek judicial review.

In the Circuit Court for Baltimore City, Mosca argued she petitioned for judicial review within thirty days of the Administration’s December 12, 2022, order denying her request for a hearing. But the Administration argued the December 12, 2022, order merely confirmed a prior denial, meaning the thirty-day clock started earlier, and that Mosca’s petition was untimely. The circuit court agreed with the Administration and dismissed Mosca’s request for judicial review.

Mosca appealed and presents two questions for our review, which we have reordered and rephrased as follows¹:

1. Did the circuit court err in dismissing Appellant’s petition for judicial review as untimely, because the petition was filed within thirty days of December 12, 2022?

¹ The Appellant’s brief presents the following questions:

1. The facts alleged on the face of Ms. Mosca’s Petition for Judicial Review indicate that the Petition was timely filed. Did the Circuit Court err when it considered and relied on documents other than the December 12, 2022, Order referenced in the Petition as basis for its decision t[o] grant the Administration’s motion to dismiss?

2. It is undisputed that Ms. Mosca filed her Petition for Judicial Review within 30 days of the Administration’s only Order denying her request for hearing on the July 26, 2022 Order as required by Maryland Insurance Code §2-215. Did the Circuit Court err when granting the Administration’s Motion to Dismiss pursuant to Maryland Rule 7-204(b)?

2. Did the circuit court err in considering exhibits not included in the petition for judicial review?

We answer the first question in the affirmative and reverse the circuit court’s dismissal.

As a result, we decline to reach the second question.

BACKGROUND

Factual and Procedural Background

On July 26, 2022, the Administration issued an order against Mosca for her alleged violations of the Maryland Insurance Article. The alleged violations in that order are irrelevant to this appeal, which is entirely concerned with the procedural dispute it spawned.

Forty-three days later, on September 7, 2022, Mosca responded to the July 26 order via an email to the Administration. The Administration treated Mosca’s response as a request for a hearing under § 2-210 of the Maryland Insurance Article.

As a result, on September 8, 2022, the Administration sent a letter to Mosca stating that because she filed a request for a hearing thirteen days late, its original order had become final on July 26, 2022 (the date it was issued), and that the matter was closed.

However, four days later, on September 12, 2022, the Administration sent Mosca a second letter stating it was “further evaluating” her request for a hearing. This was because Mosca said she had been out of town when the July 26 order was issued, and the Administration was giving her the opportunity to submit documentation to verify her travel.

Following this communication, the record is unclear whether Mosca’s request remained under active review, or whether the September 8 letter represented the Administration’s final decision.

No further communication was issued over the next 30 days. As of October 7, 2022, thirty days had passed since Mosca’s September 7, 2022, request for a hearing. At that point, the Administration had not followed up on their promise to further evaluate the request.

On December 9, 2022, ninety-three days after the last correspondence from the Administration, Mosca submitted another request for a hearing. Three days after this, on December 12, 2022, the Administration issued a new letter explicitly denying both the original and the renewed requests for a hearing. In this letter the Administration stated its decision was final and that no hearing would be granted.

Thirty days after the final denial letter, on January 11, 2023, Mosca filed a petition for judicial review in the Circuit Court for Baltimore City. On April 24, 2023, the circuit court dismissed Mosca’s petition for judicial review as untimely. Mosca then filed this timely appeal. Additional facts may be included below if necessary.

Legal Background

The Administration claims Mosca violated two different kinds of thirty-day deadlines. *First* is the deadline to request a hearing before the Administration, and *second* is the deadline to request judicial review of the Administration’s decisions. We discuss each in turn.

a. Deadline to Request Administrative Hearing

An individual has thirty-days to make a written request for a hearing with the Administration under Maryland Code Annotated, Insurance (“Ins.”) Article § 2-210(a)(2).

The procedure for requesting a hearing is governed by COMAR 31.02.01.03:

A person may request a hearing under Insurance Article, §2-210(a)(2), Annotated Code of Maryland, by submitting a written statement to the Commissioner, signed by the requesting person.

Request 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.
- (2) In calculating the 30-day period, the date of the letter notifying the party of the Commissioner’s action, intention to act, or failure to act is not included.
- (3) The end of a day is considered to be 11:59 p.m. Eastern Time.
- (4) The last day of the 30-day period is included unless it is a Saturday, Sunday, legal holiday, or a day that the Administration is closed for a part of the day.
- (5) If the last day of the 30-day period is a Saturday, Sunday, legal holiday, or a day that the Administration is closed for a part of the day, the 30-day period runs until the end of the next day which is not a Saturday, Sunday, legal holiday, or a day that the Administration is closed for a part of the day.
- (6) Intermediate Saturdays, Sundays, legal holidays, and days that the Administration is closed for a part of the day shall be counted toward the 30-day period.

COMAR 31.02.01.03(B)-(C) (cleaned up.)

Importantly, the Administration need not take any action to deny a hearing request. Ins. § 2-210(b)(3) provides that if the Administration “does not grant or refuse a hearing within the 30-day period, the hearing is deemed to have been refused.”

b. Deadline to Request Judicial Review

There are two deadlines involved to request judicial review before a circuit court when the Administration denies a request for a hearing.

First, Ins. § 2-215(d)(3) specifically addresses the timing to seek review a denied request for a hearing, stating “to take an appeal, a person shall file a petition for judicial review with the appropriate circuit court within 30 days after . . . the refusal of the Commissioner to grant a hearing”

Second, Maryland Rule 7-203 sets a general thirty-day deadline to file petitions for judicial review of an agency action:

(a) Generally. Except as otherwise provided in this Rule or by statute, a petition for judicial review shall be filed within 30 days after the latest of:

- (1) the date of the order or action of which review is sought;
- (2) the date the administrative agency sent notice of the order or action to the petitioner, if notice was required by law to be sent to the petitioner; or
- (3) the date the petitioner received notice of the agency's order or action, if notice was required by law to be received by the petitioner.

Against this legal background, we turn to the facts here.

DISCUSSION

The Three Orders

Mosca sought judicial review of the Administration’s decision after it denied her request for a hearing. The Administration argues the request for judicial review was untimely because it was not filed within thirty days of the order denying the hearing. Our task is to determine on what date the Administration refused her a hearing.

a. September 8, 2022

The first potential date is September 8, 2022. That was the date the Administration sent Mosca a letter informing her she had “failed to timely file a Request for Hearing. Therefore, the Order became final as of July 26, 2022.”

After Appellant received this letter, she informed the Administration that she had been out of state and unable to receive mail. This response is referenced by both parties, but no copy of it appears in the record.

As a result, on September 12, 2022, the Administration sent a follow up letter indicating they were “further evaluating” Mosca’s request for a hearing, and requested she provide documentation of her out-of-state travel. The parties still disagree as to whether Appellant provided the requested documentation.

If we choose September 8, 2022, as the date the Administration refused Mosca a hearing, the window for Mosca to have sought judicial review would have been from September 9, 2022, to October 13, 2022. But Mosca argues that the Administration effectively withdrew their September 8, 2022, letter when they said they were further evaluating. As a result, according to Mosca, there was no active order from which to seek judicial review. The missing correspondence in the record and ongoing factual dispute between the parties makes it difficult for us to determine whether there was an appealable order on September 8, 2022. Fortunately, doing so is not necessary to resolve this appeal, because of what occurred with the Administration’s next letter on October 7, 2022.

b. October 7, 2022

The second potential date to consider is October 7, 2022. After the September 12, 2022, letter indicating that the Administration was reconsidering Mosca’s request for a hearing, no order followed. Under Ins. § 2-210(b)(3), if a hearing is not granted or denied within thirty days, “the hearing is deemed to have been refused.”

The Administration indicated they were reconsidering Mosca’s request for a hearing on September 12, 2022. But thirty days after Mosca’s original September 7, 2022, hearing request — the date from which the statutory clock runs under Ins. § 2-210(b)(3) — the hearing had not been granted or denied. Under that provision, the hearing was therefore deemed refused as of October 7, 2022. This means Mosca missed the window to request judicial review, which ran from October 8, 2022, to November 8, 2022.

If that was the last word from the Administration, then we would conclude our analysis in the Administration’s favor. But to complicate matters, the Administration issued a separate order on December 12, 2022.

c. December 12, 2022

On December 12, 2022, the Administration issued a separate order unambiguously denying both of Mosca’s previous requests for a hearing. An agency action constitutes an independently appealable order when it reflects a definitive agency decision on the merits of a contested matter. See Md. Rule 7-203(a)(1) (thirty-day period runs from “the date of the order or action of which review is sought”). It was from the December 12, 2022, order that Mosca sought judicial review within 30 days. We hold that the October 7, 2022, deemed denial was not the Administration’s final word. The December 12, 2022, letter

explicitly denied Mosca’s requests for a hearing and reflected a definitive agency decision. Even if we accept that the October 7, 2022, deemed denial was an effective denial, the December 12, 2022, letter constituted a new and independent Administration decision that was subject to review. Consequently, Mosca’s January 11, 2023, petition to the circuit court was timely under Ins. § 2-215(d)(3) and Maryland Rule 7-203.

We think this is a fair disposition. The Administration cannot have it both ways—they cannot confine Mosca’s right to judicial review to a 30-day window but issue orders beyond that 30-day period. Most importantly, a ruling to the contrary would render the December 12, 2022, order effectively unreviewable.

Additionally, we do not share the circuit court’s concern that our ruling would cause Rule 7-203 to be “rendered meaningless . . . if you could just simply file a new request for a hearing if you’re untimely.” (emphasis supplied). Mosca’s second request for a hearing on December 9, 2022 sought to find out what happened with the Administration’s reconsideration of its decision owing to the fact that Mosca said she was out of town when the first denial issued. The Administration chose to issue a new order addressing both requests on December 12, 2022. Rule 7-203(a)(1) requires a filing within 30 days of “the date of the **order or action of which review is sought.**” And it is from that December 12 order that Mosca sought judicial review.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
REVERSED. CASE REMANDED FOR
ACTION CONSISTENT WITH THIS
OPINION. COSTS TO BE PAID BY
THE APPELLEE.**