

IN THE MATTER OF THE
MARYLAND INSURANCE
ADMINISTRATION

v.

GENEE HUDSON-PURNELL
aka GENE ALICIA HUDSON
133 Cannery Way
Berlin, Maryland 21811-1234

* BEFORE THE MARYLAND
* INSURANCE COMMISSIONER

* CASE NO.: MIA-2022-09-014

* Fraud Division File No.: R-2022-2389A

ORDER

This Order is entered by the Maryland Insurance Administration (“MIA”) against Genee Hudson-Purnell (“Respondent”) pursuant to §§ 2-108, 2-201, 2-204¹ and 2-405 of the Insurance Article, Md. Code Ann. (2017 Repl. Vol. & Supp.) (the “Insurance Article”) for the violations of the Maryland Insurance Article identified and described.

I. Regulatory Framework

1. Section 27-403 of the Insurance Article provides, in pertinent part:

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.

2. The term “claim” is defined in § 27-401(b) as:

(1) “Claim” means a demand for payment or benefit under a policy or contract by an insured, third party, or representative of the insured or third party.

(2) “Claim” includes a demand for payment or benefit made against:

(i) ...Title 9 of the Labor and Employment Article.

¹ Unless otherwise indicated, all statutory references in this Order are to the Insurance Article of the Maryland Code.

3. Title 9 of the Labor and Employment Article governs workers compensation. *See Lab. & Empl. § 9-101, et seq.*

4. Section 2-405 of the Insurance Article provides, in pertinent part:

The Fraud Division:

(1) has authority to investigate each person suspected of engaging in insurance fraud;

(2) if appropriate after an investigation:

(i) shall refer suspected cases of insurance fraud to the Office of the Attorney General or appropriate local State's Attorney to prosecute the person criminally for insurance fraud;

...

(iv) shall notify the Workers' Compensation Commission of suspected cases of insurance fraud referred to the Office of the Attorney General or appropriate local State's Attorney under subparagraph (i) of this paragraph that involve the payment of compensation, fees, or expenses under the Workers' Compensation Law; and

...

(7) shall investigate allegations of civil fraud and, if appropriate after investigation, impose administrative penalties and order restitution in accordance with § 27-408 of this article.

II. Relevant Material Facts:

5. Respondent was employed by AHS Staffing, LLC ("AHS") as a dialysis technician. She was hired on March 23, 2020. AHS had Workers' Compensation Insurance for its employees, underwritten by Old Republic Insurance Company, an authorized insurer. The policy was administered by Gallagher Bassett Services, Inc. ("Gallagher"), a third party administrator. The policy was in effect from December 1, 2019 to June 1, 2020, and provided total temporary disability ("TTD") benefits² to employees for lost wages for work-related injuries.

² MD Code, Labor and Employment § 9-621 states:

6. On May 7, 2020, Respondent notified AHS human resources ("HR") that she slipped, fell, and injured herself in the course of her employment at a Clinton, Maryland facility. On May 7, 2020, AHS reported the incident to Gallagher, which opened a workers' compensation ("WC") claim.

7. On May 8, 2020, Respondent was treated for her alleged May 7, 2020 injuries by a medical provider (hereinafter [REDACTED]). According to the treating physician assistant ("PA"), Respondent felt she would have "tremendous difficulty" performing her job duties; therefore, Respondent was prescribed an out of work status until her May 14, 2020, follow up appointment.

8. On May 14, 2020, Respondent returned to [REDACTED]. The PA who treated Respondent completed a "Medical Report Form," wherein it was noted that "Patient [Respondent] may NOT return to work at this time."

9. On July 21, 2020, Respondent returned to [REDACTED] for another follow up appointment. The PA who treated Respondent completed a "Medical Report Form," wherein it was again noted that "Patient [Respondent] may NOT return to work at this time."

10. On July 30, 2020, Respondent notified Gallagher that at her July 21, 2020 follow up appointment she was ordered out of work for 6 to 8 weeks, and that she had another appointment in September.

Amount of payment

(a)(1) Except as provided in paragraph (2) of this subsection, if a covered employee is temporarily totally disabled due to an accidental personal injury or an occupational disease, the employer or its insurer shall pay the covered employee compensation that equals two-thirds of the average weekly wage of the covered employee, but:

(i) does not exceed the average weekly wage of the State; and

(ii) is not less than \$50.

(2) If the average weekly wage of the covered employee is less than \$50 at the time of the accidental personal injury or the last injurious exposure to the hazards of the occupational disease, the employer or its insurer shall pay the covered employee compensation that equals the average weekly wage of the covered employee.

Duration of payment

(b) The employer or its insurer shall pay the compensation for the period that the covered employee is temporarily totally disabled.

11. On August 19, 2020, a Gallagher representative learned that on August 15, 2020, Respondent was injured in an automobile accident for which she retained an attorney to represent her. Consequently, Gallagher determined that the chain of causation to Respondent's disability was interrupted, and instructed Respondent to file a claim with the Worker's Compensation Commission ("WCC").

12. On September 10, 2020, Respondent visited [REDACTED] for treatment of injuries reportedly received in the August 15, 2020 motor vehicle accident ("MVA"). Respondent reported that she had not worked since May 2020, and that she did not feel capable of returning to work. The provider also documented Respondent's May 7, 2020 workplace injury, and again completed a "Medical Report Form," wherein it was noted that "Patient [Respondent] may NOT return to work at this time."

13. On October 1, 2020, Respondent returned to [REDACTED] for another appointment. The PA who treated Respondent completed a "Medical Report Form," in which it was again noted that "Patient [Respondent] may NOT return to work at this time."

14. On November 3, 2020, Respondent provided a recorded statement to a Gallagher representative, during which she described injuring her back on May 7, 2020, while at work. Respondent reported that she never had prior treatment or prior issues with her back. Respondent reported that she does not work or volunteer anywhere else. Respondent reported having an August 15, 2020, MVA, and, in the last 10 years her only other MVA was three years ago, when she struck a deer, but was not treated for injuries. Respondent reported that she had never previously filed a WC claim. Respondent confirmed that all of the answers she provided during her interview were true and correct.

15. Gallagher terminated Respondents TTD benefits, effective November 1, 2020, and on November 3, 2020, a Gallagher representative notified Respondent that she would not be afforded further TTD benefits, as the August 15, 2020, MVA had worsened her injury. Respondent expressed disagreement and stated her attorney was going to force the insurer to pay.

16. On November 5, 2020, Respondent retained an attorney to represent her in the WC claim. On January 18, 2021, Respondent filed a claim with the WCC. Respondent submitted a signed employee claim form which documented that on May 7, 2020, while working for AHS, she slipped and fell. Respondent signed the form, which contained the following: "NOTE: "

Failure to disclose information or giving false information regarding any work related activity or return to work either before or after an award of benefits, may subject you to fines, imprisonment, or both [Emphasis Added], and disqualify you from receiving benefits. A CLAIMANT'S FAILURE TO COMPLETE THIS FORM IN COMPLIANCE WITH THE DIRECTIONS MAY RESULT IN THE CLAIM BEING REJECTED. TO EXPEDITE YOUR CLAIM, YOU MAY SEND A COPY OF THE COMPLETED FORM TO YOUR EMPLOYER.

Respondent signed to WCC form immediately after the following statement:

"...I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief."

17. A Gallagher representative examined Respondent's claim history, and concluded that insurance claim records contradicted statements made by Respondent during her November 3, 2020 interview. Regarding MVAs and WC claims, in the last 10 years, Respondent reported only one MVA and no WC claims. However, Respondent's claim history reflected "...a significant list of priors both WC and MVA." Regarding the accident involving a deer, contrary to her statement, Respondent was actually treated at a hospital. The Gallagher representative identified numerous medical visits for injury similar to what Respondent reported as occurring on May 7, 2020. Contrary to Respondent's statement that she was not working following her May 7, 2020 injury,

the Gallagher representatives identified two medical staffing companies (hereinafter “Davita” and “CHG”) where Respondent was working while receiving WC TTD benefits.

18. On November 11, 2020, Gallagher retained the services of Franklin and Prokopik, Attorneys at Law ("Franklin") to represent it in Respondent's WC claim. Franklin reviewed payroll records for Davita and CHG and concluded that Respondent received checks from Davita that cover every single date that she also received TTD benefits. In addition, Respondent received income from CHG on 08/15/2020, 09/06/2020, 10/10/2020, 10/17/2020, 10/24/2020 and 10/31/2020, dates that fall within the period of time Respondent received TTD benefits. Franklin concluded that Respondent was consistently paid WC TTD benefits from May 8, 2020, to November 1, 2020, in the amount of \$20,314.89. Respondent worked and was paid by two other employers during that time.

19. A WCC hearing was scheduled for July 15, 2021, but Respondent’s attorney was granted a continuance on behalf Respondent. In granting the continuance, the WCC noted that a new hearing would be set upon request. As of the date of this Order, a request to re-schedule the WCC hearing has not been made.

20. 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.

21. Gallagher, having a good faith belief that Respondent committed insurance fraud, referred the matter to the MIA, Insurance Fraud and Enforcement Division, which opened an investigation.

22. An MIA investigator examined available evidence, including Respondent’s Davita and CHG employment records, Insurance Service Organization (“ISO”) claim records, and medical

treatment records since 2015. Contrary to Respondent's recorded statement, ISO revealed seven prior WC claims made by Respondent since 2004.

23. Contrary to Respondent's recorded statement to Gallagher that she only had one MVA in the past ten years, Respondent was actually involved in five MVAs within the last ten years, four of which she reported being injured. In an April 2, 2019, MVA, Respondent struck a deer. She reported and was treated for an injury that was similar to the injury Respondent reported to Gallagher, related to the May 7, 2020 WC claim.

24. The CHG employment records revealed a timesheet, signed by Respondent, for November 3, 2020, which reflected that Respondent actually worked on that day from 9:00 AM to 5:18 PM. This is significant in that Respondent provided a recorded statement to Gallagher on November 3, 2020 at 12:24 PM, wherein she denied working anywhere else.

25. Respondent filed a claim with the WCC on January 18, 2021, wherein she was advised of her obligation to disclose any work related activity after an award of benefits. An examination of Respondent's CHG and Davita employment records revealed Respondent was working while receiving WC TTD benefits. Both Gallagher and the WCC reported to the MIA investigator that Respondent never reported that she had been working.

III. Violation(s)

26. In addition to all relevant sections of the Insurance Article, the Administration relies on the following pertinent sections in finding that Respondent has violated Maryland's insurance laws:

§ 27-403 of the Insurance Article provides, in pertinent part:

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.

§ 27-408(c) of the Insurance Article provide, in pertinent part:

(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

(ii) order restitution to an insurer or self-insured employer of any insurance proceeds paid relating to a fraudulent insurance claim.

* * *

(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.

27. By the conduct described herein, Respondent knowingly violated § 27-403 of the Insurance Article. Respondent committed a violation of the Insurance Article when she made false statements to an insurer to affect payment related to a workers' compensation claim. As such, Respondent is subject to an administrative penalty and restitution under the Insurance Article § 27-408(c).

IV. Sanctions

28. Insurance fraud is a serious violation, harmful to consumers because the losses experienced by insurance companies are passed on to consumers in the form of higher premiums. Pursuant to §§ 2-210(d)(1) and 2-405 of the Insurance Article, the Commissioner has the authority to investigate complaints alleging that a fraudulent claim has been submitted to an insurer.

29. Having considered the evidence in this case, the MIA has determined that Respondent shall pay restitution to Gallagher in the amount of \$20,314.89. Restitution shall be sent to Gallagher

Bassett Services, Inc., P.O. Box 2934, Clinton, IA 52733-2934, and reference claim number 002515-015969-wc-01 Hudson-Purnell.

30. Having considered the factors set forth in § 27-408(c)(2) and COMAR 31.02.04.02, the MIA has determined that a fine of \$3,000.00 is an appropriate penalty.

31. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number (R-2022-2389A) and name (Genee Hudson-Purnell). Payment of the administrative penalty shall be sent to the attention of: Acting Associate Commissioner Joseph Smith, Insurance Fraud and Producer Enforcement Division, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202. Unpaid penalties will be referred to the Central Collections Unit for collection.

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

WHEREFORE, for the reasons set forth above, and subject to the right to request a hearing, it is this 22nd day of September 2022, **ORDERED** that:

(1) Genee Hudson-Purnell shall pay an administrative penalty of three thousand dollars (\$3,000.00) within 30 days of the date of this Order.

(2) Genee Hudson-Purnell shall pay restitution to Gallagher Bassett Services, Inc. in the amount of \$20,314.89 within 30 days of the date of this Order.

KATHLEEN A. BIRRANE
Insurance Commissioner

BY: **signature on original**

JOSEPH SMITH
Acting Associate Commissioner
Insurance Fraud & Producer Enforcement 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 Order. This request must be in writing and received by the Commissioner within thirty (30) days of the date of the letter accompanying this 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 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: Melanie Gross, Executive Assistant to the Deputy Commissioner. 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 Order and the Order shall be final on its effective date. Please note that if a hearing is requested on this initial 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.