

**BEFORE ALLAN MCVEY INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA**

ELIZABETH BLACKBURN

Complainant,

v. **ADMINISTRATIVE PROCEEDING NO.: 25-IC-184317**

**NATIONAL GENERAL ASSURANCE
COMPANY**

Respondent.

FINAL ORDER

The undersigned, Insurance Commissioner of the State of West Virginia, does hereby adopt and approve the Recommended Decision of the Hearing Examiner, appended hereto, as well as the findings of fact and conclusions of law therein contained. The Complainant proved that the Respondent violated West Virginia Code § 33-11-4(9)(d), West Virginia Code § 33-11-4(9)(f), and West Virginia Code of State Rules §§ 114-14-6.1 and 114-14-6.4.

Therefore, the Complainant's complaint is granted.

The Respondent shall review the Complainant's claim and conduct further investigation in light of the findings in the recommended decision and advise the Insurance Commissioner of its findings and conclusions.

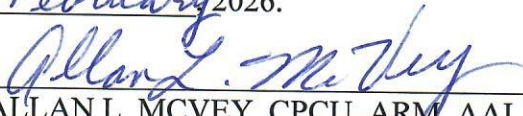
This matter will be referred to the Insurance Commissioner's Market Conduct Unit to review and determine if a market conduct examination is warranted.

The objections of any party aggrieved by this Order and to the Recommended Decision herein adopted are preserved.

The Commissioner's final orders are subject to judicial review in the Intermediate Court of Appeals as set forth in W.Va. Code § 51-11-4(b)(4). Any person aggrieved by this Order may, **within 30 days of the entry of the judgment being appealed**, file an appeal as set forth in W.Va. Code § 33-2-14 and Rule 5(b) of the West Virginia Rules of Appellate Procedure.

THEREFORE, it is **HEREBY ORDERED** that the Complaint by Elizabeth Blackburn is upheld.

ENTERED this 5th day of February 2026.



ALLAN L. MCVEY, CPCU, ARM, AAI, AAM, AIS
INSURANCE COMMISSIONER

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**RECOMMENDED DECISION
OF THE HEARING EXAMINER**

On January 14, 2026, a hearing was held before Hearing Examiner Mark W. Carbone, Esquire, at the West Virginia Offices of the Insurance Commissioner, Charleston, West Virginia. Elizabeth Blackburn (hereinafter “Complainant”), appeared pro se. No one made an appearance on behalf of National General Assurance Company (hereinafter “Respondent”). Following the hearing, the matter was deemed submitted for recommended decision.

Based upon a thorough review of the entire record in this case, the undersigned now makes the following Findings of Fact and Conclusions of Law.

Findings of Fact

1. On June 15, 2025, a 2015 Ford Escape owned by Elizabeth Blackburn and driven by her son, Carl Blackburn, was involved in an accident on McCorkle Avenue in South Charleston, West Virginia. (Tr. P. 5)

2. The Complainant's vehicle was hit nearly head on by a Ford 250 truck. The driver of the Ford Truck did not have insurance. The Complainant's vehicle was a total loss. (Tr. P. 10)

3. On June 16, 2025, the Complainant contacted her insurance agent, Melinda Browning. During that conversation, Ms. Browning gave the Complainant the name Joshua Weinset to contact about the claim. The Complainant then contacted Mr. Weinset. Mr. Weinset did not contact the Complainant until June 20, 2025. (Tr. P, 6, 8)

4. When Mr. Weinset called the Complainant back on June 20, 2025, he authorized a rental car for the Complainant. (Tr. P. 6)

5. At some point the Complainant received a Reservation of Rights Letter. The basis of this letter was that the Respondent alleged that the Complainant's son was living in the same household as the Complainant and that was not reflected in the insurance policy application. The Complainant denied that her son was living with her. (Tr. P. 6)

6. In order to resolve the issue of her son's residency, the Complainant obtained an affidavit from her son's girlfriend stating that the Complainant's son was living with his girlfriend. (Tr. P. 6)

7. The Complaint also testified that Mr. Weinset raised the issue that the accident was under criminal investigation. She stated that her son did not receive a ticket because of the accident and was unaware of any criminal investigation. (Tr. P. 9)

8. The Complainant stated that it took fifty-four days from the time of the accident before the Respondent paid for the damage to the Complainant's car. The Respondent deducted \$1,250.00 from the settlement because it claimed that there was earlier damage to the vehicle's tailgate. The Complainant claimed that there had not been any prior damage to the vehicle's tailgate and the Respondent should not have made the \$1,250.00 deduction. (Tr. P. 7)

9. Due to the delay in paying the claim, the Complainant had to incur penalties from her finance company for the delinquent payments for her car loan. (T. P. 7)

10. At the conclusion of the hearing, no one had made an appearance on behalf of the Respondent. The West Virginia Offices of the Insurance Commissioner had properly notified the Respondent of the hearing date and time in an email dated December 9, 2025. (Tr. P. 4; Ex. 1)

Issue

Whether the Respondent violated West Virginia Code of State Rules §§ 114-14-6.1 and/or 114-14-6.4. If so, what is the remedy?

Burden of Proof

The Complainant has the burden of proof to prove, by a preponderance of the evidence, that the Respondent violated the insurance laws of the State of West Virginia.

Jurisdiction

The West Virginia Offices of the Insurance Commissioner has jurisdiction over this matter under West Virginia Code § 33-2-3.

Analysis

The Complainant raised two major issues in her complaint and during the hearing. The first issue raised by the Complainant deals with the quality of the investigation conducted by the Respondent. When dealing with the quality of an investigation we must first look at West Virginia Code § 33-11-4(9)(d) which states as follows:

(9) Unfair claim settlement practices. -- No person shall commit or perform with such frequency as to indicate a general business practice any of the following:

(d) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

West Virginia Code § 33-11-4(9)(d) is further defined in West Virginia Code of State Rules § 114-14-6.1 which states as follows.

§114-14-6. Standards For Prompt Investigations And Fair And Equitable Settlements Applicable To All Insurers.

6.1. Investigation of claims. -- Every insurer shall promptly conduct and diligently pursue a thorough, fair and objective investigation and may not unreasonably delay resolution by persisting in seeking information not reasonably required for or material to the resolution of a claim dispute. This section is not intended to conflict with the statutory requirements of the Medical Professional Liability Act, W. Va. Code §§55-7B-1 to 11, as the same relate to the assertion and investigation of medical professional liability claims.

The Complainant testified that there were two reasons for the fifty-four-day delay from the date of the accident until her claim was paid. The first issue was the allegation that the Complainant's son was residing with the Complainant. When the Complainant applied for her insurance policy she did not list her son as residing with her. If her son had been living with the Complainant and driving her vehicle on a regular basis, this would have been a fraudulent act.

Since the Respondent did not make an appearance at the hearing, we do not know what basis, if any, that Respondent had to assert that the Complainant committed fraud by not listing her son as residing in her home. The only evidence that was presented at the hearing was that the Complainant's son was driving the vehicle at the time of the accident. When the Complainant was asked by the Respondent about whether her son was living with her, she denied it. The Respondent did not believe the Complainant's denial and forced the Complainant to obtain written proof that her son was not living with her. The girlfriend of the Complainant's son provided a written statement that the son resided with his girlfriend.

By forcing the Complainant to get written proof that her son was not living with her is an unreasonable delay in settling the matter. This is a violation of West Virginia Code of State Rule § 114-14-6.1.

Another potential violation of West Virginia Code of State Rule § 114-14-6.1 was the statement that there was a criminal investigation into the accident. There is no evidence that there was a criminal investigation. The driver of the Complainant's vehicle was not cited in the accident; therefore, there would be no reason for a criminal investigation. The only evidence presented at the hearing was that the Complainant was told that the accident was under criminal investigation. Since there is no apparent evidence that could justify this being a reason to delay settlement of the claim, that is another violation of West Virginia Code of State Rule § 114-14-6.1.

The next issue to review is the settlement offer by the Respondent. We reviewing settlement offers we must look at West Virginia Code § 33-11-4(9)(f) which states as follows:

- (9) Unfair claim settlement practices. -- No person shall commit or perform with such frequency as to indicate a general business practice any of the following:
- (f) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

West Virginia Code § 33-11-4(9)(f) is further defined in West Virginia Code of State Rules § 114-14-6.4(b) which states as follows.

- b. No insurer may attempt to settle a claim by making a settlement offer that is unreasonably low. The Commissioner shall consider any evidence offered regarding the following factors in determining whether a settlement offer is unreasonably low:
 - 1. The extent to which the insurer considered evidence submitted by the claimant to support the value of the claim;
 - 2. The extent to which the insurer considered legal authority or evidence made known to it or reasonably available;
 - 3. The extent to which the insurer considered the advice of its claims adjuster as to the amount of damages;
 - 4. The extent to which the insurer considered the opinions of independent experts; property

damage;

5. The procedures used by the insurer in determining the dollar amount of
6. The extent to which the insurer considered the probable liability of the insured and the likely jury verdict or other final determination of the matter; and
7. Any other credible evidence presented to the Commissioner that demonstrates that the final amount offered in settlement of the claim by the insurer is or is not below the amount that a reasonable person would have offered in settlement of the claim after taking into consideration the relevant facts and circumstances at the time the offer was made

Subsections of West Virginia Code of State Rules § 114-14-6.4(b)1 through 6 cannot be analyzed since the Respondent did not make an appearance at the hearing. We then must look at subsection 7 to determine whether there is a violation of West Virginia Code of State Rules § 114-14-6.4(b).

The Complainant testified that the Respondent reduced the claim payment by \$1,250.00 because of damage to the tailgate of the vehicle. The Complainant said, under oath, that there was no damage to the tailgate prior to the accident. Without testimony from the Respondent, it cannot be determined why it believed that there was damage to the tailgate prior to the accident.

The only credible evidence presented was the testimony of the Complainant that there was no damage to the tailgate before the accident, therefore it was not reasonable for the Respondent to reduce the claim by \$1,250.00. The reduction is a violation of West Virginia Code of State Rules § 114-14-6.4(b)(7).

The Complainant proved that the Respondent violated West Virginia Code § 33-11-4(9)(d), § 33-11-4(9)(f), West Virginia Code of State Rules §§ 114-14-6.1 and 114-14-6.4.

Conclusions of Law

1. The West Virginia Offices of the Insurance Commission have jurisdiction over this matter by virtue of West Virginia Code Chapter § 33-2-3.

2. The Complainant has the burden of proof, by a preponderance of the evidence, to prove that the Respondent violated West Virginia Code § 33-11-4(9)(d), West Virginia Code § 33-11-4(9)(f), West Virginia Code of State Rules §§ 114-14-6.1 and West Virginia Code of State Rules §§ 114-14-6.4.

3. The Complainant proved, by a preponderance of the evidence, that the Respondent violated West Virginia Code § 33-11-4(9)(d) and West Virginia Code of State Rule § 114-4-6.1 when it proved that the Respondent unreasonably delayed resolution of the matter by seeking information not required to resolve the issue,

4 The Complainant proved, by a preponderance of the evidence, that the Respondent violated West Virginia Code § 33-11-4(9)(f) and West Virginia Code of State Rules § 114-14-6.4(b)(7) when it proved that the Respondent's offer of settlement was below what a reasonable person would have offered by deducting \$1,250 from the settlement amount.

RECOMMENDED DECISION

It is the recommendation of the Hearing Examiner that the Complainant proved that the Respondent violated West Virginia Code § 33-11-4(9)(d), § 33-11-4(9)(f), West Virginia Code of State Rules §§ 114-14-6.1 and 114-14-6.4(b). Therefore, the Complainant's complaint should be granted.

Respectfully recommended,


MARK W. CARBONE