

BEFORE JAMES A. DODRILL, INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA

JEFF PFISTER,

Complainant,

vs.

ADMINISTRATIVE PROCEEDING NO. 18-THP-02131

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,
Respondent.

ORDER DENYING REQUEST FOR A HEARING

This matter came before the West Virginia Offices of the Insurance Commissioner (hereinafter, "WVOIC"), on Jeff Pfister's (hereinafter, "Complainant") request for a hearing on his third-party administrative complaint filed against State Farm Mutual Insurance Company (hereinafter, "State Farm.") Whereupon, the WVOIC makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Complainant was involved in a motor vehicle accident on April 23, 2018 in Wheeling, West Virginia.
2. Complainant's daughter was injured in the motor vehicle accident and Complainant's vehicle suffered property damage.
3. State Farm insured the Complainant as well as the driver of the other vehicle involved in the accident and accepted liability on behalf of the other driver.

4. On or about July 17, 2018 Complainant filed his third-party administrative complaint with the WVOIC. Complainant alleges in his third-party administrative complaint that the medical bills for his daughter remained unpaid. This portion of the third-party administrative complaint appears to have been resolved.

5. In his third party-administrative complaint, Complainant also asks to “receive detailed information for the available options to properly repair my vehicle.”

6. In his request for a hearing filed nearly 14 months after issuance of the “no merit” letter in this matter, Complainant alleges that he was offered two options for the repair of his vehicle as evidenced by an email to him from State Farm dated September 17, 2018. One option was to take the vehicle to Jeff’s Body Shop in St. Clairsville, Ohio, which is a member repair facility of the “State Farm Select Service Program.” Complainant alleges that the State Farm website describes a benefit of using this program as receiving a “written national limited lifetime repair warranty.” Complainant alleges, however, that he cannot obtain information about this warranty and was told that it came from State Farm, not the repair shop. Additionally, Complainant states that he has been provided a warranty by another shop in the “State Farm Select Service Program.” However, that warranty is not honored nationally and is not a lifetime value.

7. Complainant alleges that his other option is for State Farm to inspect his vehicle and issue him a check. Complainant alleges he cannot accept this option as he does not know the value of the check he will receive. The email from State Farm referenced by Complainant and attached to his email to the WVOIC, however, does not indicate these two options as alleged by Complainant. In fact, the email from State Farm states, “Mr. Pfister, I am unaware of your decision to either have Jeff’s Body Shop repair your vehicle with billing to State Farm or if you prefer to

have State Farm look at your vehicle and write a check directly payable to you? I look forward to receiving a response from you.”

8. State Farm sent Complainant a letter dated May 4, 2018, stating that he has the right to select the repair facility of his choice.

9. On or about August 31, 2018, State Farm responded to the third-party administrative complaint by denying that it had violated the Unfair Trade Practices Act.

10. On or about December 7, 2018, the WVOIC sent the Complainant a “no merit” letter closing his third-party administrative complaint file before the WVOIC. As stated in the “no merit” letter, the WVOIC’s investigation did not reveal any unfair claims settlement practices committed by State Farm in the handling of his claim, and found that this matter was solely a good faith disagreement over the value of the claim which, by definition, is not an unfair claims settlement practice.

11. Thereafter, on February 3, 2020, nearly 14 months after the “no merit” letter was issued, Complainant requested a hearing on the merits of his third-party administrative complaint against State Farm before the WVOIC, pursuant to W.Va. Code §33-2-13.

CONCLUSIONS OF LAW

1. Regarding third-party complaints, the WVOIC does not have the general authority to adjudicate the merits of an underlying claim involving a good faith dispute over liability or value. Pursuant to W.Va. Code §33-11-4a, the WVOIC is tasked with resolving third-party complaints regarding unfair claims settlement practices against an insurance company. However, W.Va. Code §33-11-4a does not give the WVOIC the authority to order an insurance company to

pay a third-party claimant's underlying damages. The authority of the WVOIC is limited by statute.

2. A disagreement regarding liability or value for an underlying claim does not alone signal an unfair claims settlement practice. "So long as the insurer acts in good faith, the insurer is not held to standards of omniscience or perfection; it has leeway to use and should consistently employ its honest business judgment." *Jackson v. State Farm Mut. Auto. Ins. Co.*, 215 W.Va. 634, 600 S.E.2d 346 (2004) quoting *Peckham v. Continental Cas. Ins. Co.*, 895 F.2d 830, 835 (1st Cir. 1990). State Farm simply must show that its investigation was done in good faith given its own knowledge at the time of the relevant facts and law concerning the underlying claim. See *Jackson v. State Farm Mut. Auto. Ins. Co.* at 642, 354 quoting *Bolden v. O'Connor Café of Worchester, Inc.*, 50 Mass. App. Ct. 56, 734 N.E.2d 726 (2000).

3. Moreover, WV Code §33-11-4a(g) states that "a good faith disagreement over the value of an action or claim or the liability of any party to any action or claim is not an unfair claims settlement practice."

4. Complainant was properly advised that he can select the repair facility of his choice to have his vehicle repaired in accordance with industry standards. He is not bound to select the repair facilities listed in the "State Farm Select Service Program," and State Farm has communicated this to Complainant. Any issues involving the warranty provided do not fall under any of the Unfair Claims Settlement Practices as described in W.Va. Code §33-11-4(9) and, therefore, cannot be the subject of a hearing under W.Va. Code §33-11-4a.

5. W.Va. Code §33-2-13 states, in pertinent part, “[t]he commissioner may call and hold hearings for any purpose deemed necessary by him for the performance of his duties.”

Further, W.Va. Code R. §114-13-3.3 states:

3.3 Hearing on written demand- When the commissioner is presented with a demand for a hearing as described in subsections 3.1 and 3.2 of this section, he or she shall conduct a hearing within forty-five (45) days of receipt by him or her of such written demand, unless postponed to a later date by mutual agreement. However, if the commissioner shall determine that the hearing demanded:

- a. Would involve an exercise of authority in excess of that available to him or her under the law; or
- b. Would serve no useful purpose, the commissioner shall, within forty-five (45) days of receipt of such demand, enter an order refusing to grant the hearing as requested, incorporating therein his or her reasons for such refusal. Appeal may be taken from such order as provided in W. Va. Code §33-2-14.

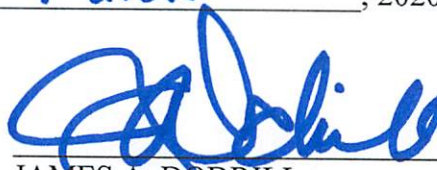
6. W.Va. Code §33-2-13 and W.Va. Code R §114-13-3.3 give the Commissioner discretion in deciding whether a hearing would serve a useful purpose. Holding a hearing in this matter would involve an exercise of authority in excess of that available to the Commissioner under the law since, in doing so, the Commissioner would be adjudicating a good faith dispute over the value of the Complainant’s underlying claim. Therefore, this matter was properly closed pursuant to W.Va. Code §33-11-4a(g) and a hearing in this matter would serve no useful purpose.

ORDER

Wherefore, a hearing in this matter would serve no useful purpose and would involve an exercise of authority in excess of that available under the law. It is therefore, **ORDERED** that the Complainant’s request for a hearing is **DENIED**. Pursuant to W.Va. Code §33-2-14, the

Complainant has the right to appeal this Order of the Insurance Commissioner to the Circuit Court of Kanawha County within 30 days of receipt.

ENTERED this 11th day of March, 2020.



JAMES A. DODRILL
Insurance Commissioner