

Appeals from Determinations Regarding Producer Authorization

COMAR 14.35.10

Background

The Exchange may suspend, revoke, or refuse to renew a producer authorization.

MD Code Ann., Ins. § 31-113 (3) (i)

If MHBE suspends, revokes, or refuses to renew a producer's authorization to sell insurance on the Exchange, the producer must be provided the opportunity to appeal the Exchange's decision, subject to the contested case provisions of Title 10, Subtitle 2 of the State Government Article.

MD Code Ann., Ins. § 31-113

Historically

- Typically, the Exchange has only taken action on a producer's authorization after the Maryland Insurance Administration (MIA) has also done so.
- Recently the Exchange has had to investigate consumer grievances regarding producers on the Exchange.
- This has prompted the need to address appeals should the Exchange find the need to take action against producer authorizations.
- It is anticipated that this will be a rare occurrence.

Currently

- Once the Exchange takes action on a producer's authorization, the Board must determine whether the Board will hear the appeal or delegate the appeal to a third party.
- The Board must make this decision **each time** the Exchange takes action regarding a producer's authorization which is procedurally cumbersome and time consuming.

Proposal

The Committee *recommends* the Board delegate these hearings to the Office of Administrative Hearings (OAH) to:

1. Conduct contested case evidentiary hearings;
2. Determine **final** findings of fact;
3. Determine **conclusions** of law; and
4. Issue **proposed** orders.

Board's Role

- **Considering Exceptions**

- If the Board is the Final Decision-Maker and does not preside over the hearing, the parties must be allowed to:
 - File Exceptions to the Proposed Administrative Decision, and
 - Request to present oral argument before a majority of the Board.

State Government Article, § 10-216(a)(2)

- **Issuing Final Order**

- After consideration of OAH's findings of fact, conclusions of law, and proposed order, as well as any Exceptions, the Board will issue the Final Order.

COMAR 14.35.10.09A of proposed revisions

Proposed Amendments to COMAR Chapter 10

Based on the Policy Committee's recommendations, we have made proposed changes to the COMAR chapter on producer hearings.

There are **two** most notable changes:

1. Minor adjustments in wording to reflect OAH's role in the hearing process.
1. Removal of several sub-chapter on hearing procedures as OAH has their own procedures which are largely the same.

Next Steps

Should the Board vote to approve the Policy Committee's recommendations:

- Proposed COMAR amendments submitted to the Administrative, Executive and Legislative Review (AELR) Committee, and published in the Maryland Register for comment.
- The Board will execute a Delegation Letter and Hearing Agreement between the Exchange and OAH.
- The Exchange will update their internal Policies and Procedures to reflect the accepted recommendations.

Questions/Discussion

Motion

I move to [approve/defer] the proposed regulation amendments to COMAR 14.35.10, [as presented/as amended], and authorize MHBE to submit the proposed regulations for publication in the Maryland Register and to issue a delegation letter and execute hearing agreement with the Office of Administrative Hearings.