

THE STATE OF NEW HAMPSHIRE

INSURANCE DEPARTMENT

In Re: Leticia A. Kohnen

16-023-EP

ORDER

The New Hampshire Insurance Department (hereinafter "NHID") issued a show cause order to Leticia A. Kohnen (hereinafter "Respondent"), a New Hampshire non-resident insurance producer, on August 22, 2016. In doing so, NHID alleged that when the Respondent submitted her producer license application in October 2015, she failed to disclose within her application that she had a child support obligation in arrearage. Based on this allegation, NHID asserts that the Respondent violated RSA 402-J:12, I (a) and RSA 402-J:12, I (h), as her conduct was misleading and dishonest in the practice of business, and therefore, she should have her New Hampshire producer license revoked and pay a penalty of \$2500 for each violation. On August 22, 2016, NHID, through its Enforcement Division, sent a letter to the Respondent notifying her that her hearing was scheduled at NHID on September 27, 2016 at 9 am.

Presently, before me is a September 14, 2016 letter submitted by the Respondent in response to NHID's August 22, 2016 letter. In her letter the Respondent requests permission to participate by telephone at her hearing. In support of her request, she states that she lives in Texas and does not have sufficient resources to travel to New Hampshire to physically appear at her hearing. She also states that she did not disclose her child support arrearage within her producer license application because when she completed the application, she had forgotten about her child support arrearage.

Today, via email correspondence, NHID stated that it has no objection to the Respondent participating by telephone at her hearing. In addition, with regard to previous attempts to contact the Respondent, NHID has only been able to contact the Respondent by telephone by leaving a message with a telephone number listed for her employer.

Pursuant to Ins 204.01 (b), hearings shall be conducted with all parties and witnesses "physically present before the hearing officer." However, a telephonic hearing shall be conducted, upon motion of any party, if the hearing officer determines that good cause exists and "conducting the hearing with one or more parties participating by telephone would not violate any law or rule or constitutional protections, and would promote the fair, accurate and efficient resolution of issues pending before the department." Ins 204.01 (b) (1) (2).

As to the good cause requirement, pursuant to Ins 204.01 (c), "good cause" includes the following:

- (1) Excessive distance to the hearing location;
- (2) Physical disability or impairment;
- (3) Transportation difficulties;
- (4) The physical presence of the respondent would threaten the health or safety of the respondent or any other individual; or
- (5) Other circumstance that would prevent the respondent from being able to appear and participate in person at the hearing.

Given the excessive distance from the Respondent's residence in Texas to the hearing in New Hampshire and the Respondent's limited resources to attend the hearing in person, good cause exists to permit her to participate by telephone.

Having determined that good cause exists, I must consider whether permitting the Respondent to testify by telephone does not violate any other rules, laws, or constitutional protections and whether it would promote the fair and efficient resolution of the issues in this matter. Ins 204.01 (b) (1) (2).

Parties involved in an administrative hearing, such as a hearing before the New Hampshire Insurance Department as to the licensure of an insurance producer, have the right (1) to appear in person; (2) to be present during the giving of all evidence; and (3) to cross-examine witnesses. RSA 541-A:30; 541-A:31; 541-A:33; and 400-A:19 (II); see also Attitash Mountain Service Company v. Schuck, 135 N.H. 427, 431-32 (1992).

Here, the Respondent does not wish to participate at her hearing in person. The Respondent also does not dispute that she failed to disclose her child support arrearage on her license application. Rather, she admits that she had a child support arrearage but she had forgotten about that arrearage when she completed her producer license application. Finally, NHID does not object to the Respondent's request to participate at her hearing by telephone. As a result, given the circumstances of this case, I do not find it necessary to require the Respondent to be physically present at her upcoming hearing. Moreover, permitting the Respondent to participate at her hearing telephonically will promote a fair and efficient resolution of this case. However, the Respondent shall be responsible for contacting NHID to obtain instructions so that she may participate by telephone at her hearing on September 27, 2017 at 9 am (Eastern Standard Time).

In light of the foregoing, the Respondent's request to appear telephonically is granted.

Date: 9-23-16

Heather Silverstein

Heather Silverstein, Presiding Officer