Circuit Court for Prince George's County
Case No. CAL16-35715

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 664

September Term, 2017

STANLEY T. KRAWCZEWICZ

v.

MARYLAND INSURANCE ADMINISTRATION, ET AL.

Woodward, C.J.,
Kehoe,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 14, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

On January 27, 2016, Stanley Krawczewicz, appellant, was involved in a motor vehicle accident in Baltimore. State Farm Mutual Automobile Insurance Company ("State Farm"), appellee, Krawczewicz's insurer, investigated and determined that Krawczewicz was at fault. Krawczewicz then filed a complaint with the Maryland Insurance Administration ("MIA"), appellee, alleging violation of Maryland insurance laws and an unfair claim settlement practice. On July 6, 2016, the MIA sent Krawczewicz a letter informing him that there was insufficient evidence supporting his claim and that State Farm's handling of the claim did not violate Maryland insurance laws. The letter also advised Krawczewicz that he had a right to a hearing to present additional evidence: "To request a hearing you must do so in writing and the request **must be received** by [MIA] within thirty (30) days of the date of this letter." (Emphasis added).

On August 3, 2016, Krawczewicz mailed a written request for hearing to MIA via first class mail. MIA did not receive the request until August 8, 2016, which was beyond thirty days from July 6, 2016.[1] Accordingly, MIA informed Krawczewicz that his request for a hearing was denied as untimely. Krawczewicz filed a petition for judicial review in the Circuit Court for Prince George's County, which affirmed the MIA's decision. He then noted a timely appeal to this Court, purporting to challenge the validity of MIA's timing deadlines. For the reasons stated below, we affirm.

[1] Krawczewicz stated that he did not have the ability to track his letter requesting a hearing. He later mailed two other documents to MIA with tracking ability via first class mail and demonstrated that the documents took six days in one instance and seven in another to reach MIA. Krawczewicz questions how this is possible given that any mail he receives from MIA takes just two days to get to him. This is, however, immaterial to our decision in this case.

"When reviewing a decision of an administrative agency, this Court's role is 'precisely the same as that of the circuit court.'" *Stover v. Prince George's Cnty.*, 132 Md. App. 373, 380 (2000) (quoting *Dep't of Health & Mental Hygiene v. Shrieves*, 100 Md. App. 283, 303-04 (1994)). Accordingly, our review is "'narrow. The court's task on review is not to substitute its judgment for the expertise of those persons who constitute the administrative agency.'" *Id.* at 381 (quoting *UPS v. People's Counsel for Balt. Cnty.*, 336 Md. 569, 576-77 (1994)). "'Rather, [t]o the extent the issues on appeal turn on the correctness of an agency's findings of fact, such findings must be reviewed under the substantial evidence test. The reviewing court's task is to determine whether there was substantial evidence before the administrative agency on the record as a whole to support its conclusions.'" *Capital Commercial Props., Inc. v. Montgomery Cnty. Planning Bd.*, 158 Md. App. 88, 95 (2004) (quoting *Stover*, 132 Md. App. at 381). "Substantial evidence is defined as 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" *Sugarloaf Citizens Ass'n v. Frederick Cnty. Bd. of Appeals*, 227 Md. App. 536, 546 (2016) (quoting *Catonsville Nursing Home, Inc. v. Loveman*, 349 Md. 560, 569 (1998)). "We are not bound, however, to affirm those agency decisions based upon errors of law and may reverse administrative decisions containing such errors." *Id.*

Our review of this case is governed by COMAR 31.02.01.03. Subsection (C)(1) of that regulation provides: "The request [for a hearing] shall be received by the Commissioner within 30 days of the date of the letter notifying the party of the Commissioner's action, intention to act, or failure to act." Subsection (E)(4) of the regulation directs MIA to grant a hearing, unless "[t]he request is untimely[.]"

Accordingly, we perceive no error in MIA's decision to deny Krawczewicz a hearing because his request was untimely.

To the extent that Krawczewicz alleges a violation of due process in the application of COMAR 31.02.01.03, we perceive no issue. Maryland courts have routinely upheld as "fundamentally fair" procedures that foreclose further process following an untimely request. *See In re Sean M.*, 430 Md. 695, 713-14 (2013); *Golden Sands Club Condo., Inc. v. Waller*, 313 Md. 484, 496-98 (1988). All that is required is that "'the notice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *Swarey v. Stephenson*, 222 Md. App. 65, 88 (2015) (quoting *Miserandino v. Resort Props., Inc.*, 345 Md. 43, 53 (1997)). MIA's letter did that, and Krawczewicz failed to timely request a hearing.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.