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**Appeal of Delores Langford of a Decision of the
Commonwealth Automobile Reinsurers
Docket No. C2005-08**

Decision and Order

Introduction and Procedural History

By letter dated October 11, 2005, Delores Langford ("Ms. Langford") appealed to the Commissioner of Insurance a decision of the Commonwealth Automobile Reinsurers' ("CAR") denying her an appointment as an Exclusive Representative Producer ("ERP"). I was appointed presiding officer and on November 1, 2005, I issued an initial order which required Ms. Langford to submit a statement by November 21, ordered CAR to file a response, and set the prehearing conference for December 16. On November 22, Ms. Langford submitted her statement. Ms. Langford represented herself throughout the proceeding; CAR has been represented by Joseph J. Maher, Jr., Esq., its general counsel.

Parties Arguments

At the December 16, 2005 prehearing conference, Ms. Langford and Mr. Maher agreed that there were no facts in dispute. Ms. Langford stated that she understands CAR's decision and knows that it is CAR's policy to only appoint ERPs in market need territories. She reiterated the statement in her October 11 letter that she appealed because she wanted the Commissioner to consider her extenuating health circumstances. Ms. Langford described her extenuating medical condition that requires her to work in close proximity to a restroom facility at all times and prevents her from traveling long distances in a car. She argued that for this reason, at least while the side effect persists, she is only able to conduct insurance business out of her home. She noted that she has

been engaged in the insurance industry for more than fifteen years and wants to operate her own insurance agency. Ms. Langford stated that she was capable of fulfilling the ERP requirement to write four hundred policies in the first year because as of now, if she had been appointed an ERP, she could write ten to eleven policies per day.

Mr. Maher stipulated that Ms. Langford was qualified to be an ERP in every respect, but there were no openings for an ERP anywhere in the Commonwealth, including Boston, where she lives. He stated that the CAR Rules of Operation require that ERPs only be appointed in areas with a demonstrated market need as determined by CAR's market need formula. He also noted that because CAR is in the process of collecting data for the redistribution of ERPs, per the Commissioner's order, it is not currently appointing ERPs. He argued that the CAR Governing Committee does not have authority to make an exception to the market need requirement for ERP appointments.

I issued a letter to Ms. Langford and Mr. Maher on December 19 which summarized the events from the prehearing conference, confirmed that no facts were in dispute, informed them that there would be no hearing, and gave them until December 27 to submit a memorandum of law, if they so chose. Neither Ms. Langford nor Mr. Maher submitted a memorandum.

Analysis and Discussion

Neither party has identified any provision of the CAR Plan of Operation or Rules of Operation that permits an exception to the market need requirement for ERP appointment, or any precedent that would support making such an exception. The purpose of the ERP system is to ensure that every territory has ample agents to fulfill the needs of insureds in that market. To make an exception to the market need requirement would be to undermine the basis for ERP appointments. Although Ms. Langford's medical condition at this time limits her mobility, it does not preclude her from engaging in the business of insurance. She can still work in the insurance business, but not currently, as an ERP in Boston.

On this record, it appears that Ms. Langford is well qualified for an appointment as an ERP and would be capable of fulfilling the requirements of an ERP appointment, were she to be designated as such. Included with the documentation that she submitted on November 22 were letters and certificates from previous employers affirming the

quality of her work and twenty-seven letters from prospective clients who desired that she be appointed an ERP so that she could be their agent. She is not precluded from applying for such an appointment in the future. However, at this time, there are no market need territories in the Commonwealth.

Conclusion

For all of the above reasons, the CAR Governing Committee's decision to deny Delores Langford an ERP appointment is affirmed.

Dated: January 9, 2006

Amma A. Kokro, Esq.
Presiding Officer

Pursuant to M.G.L. c. 26, §7, this decision may be appealed to the Commissioner of Insurance.