

**COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
CIVIL DIVISION**

Clifton Care Center, et al., :  
Appellants, : **CASE NO. 12CVF-4732**  
-vs- : **JUDGE SERROTT**  
Ohio Department of Job and Family Services, :  
Appellee. :

**DECISION AND ENTRY SUSTAINING APPELLEE’S MOTION TO DISMISS  
AND  
NOTICE OF FINAL APPEALABLE ORDER**

Rendered this 26<sup>th</sup> day of July, 2012.

**SERROTT, J.**

This matter is a purported “administrative appeal” from an alleged “adjudication” from Ohio Department of Job and Family Services (“O.D.J.F.S.” or “the Agency”) denying Appellants’ request for reconsideration of the denial of claims for payment due to no Medicaid eligibility. Appellants argue that the denial letter was a final adjudication order and that they were unlawfully denied due process because they were not given the option to seek a final fiscal audit conference or given the opportunity to participate in an administrative hearing.

O.D.J.F.S. moves the Court to dismiss the appeal on the grounds that the letter denying reconsideration of the decision not to pay the claims was simply a response to an inquiry from Appellants and not an appealable adjudication under R.C. Chapter 119. O.D.J.F.S. also claims that its response to Appellants’ inquiry was not an “audit” and therefore not an appealable order pursuant to R.C. 5111.06(B).

In opposing the Motion to Dismiss, Appellants argue the Agency’s decision is an “adjudication” or, in the alternative, constitutes an audit appealable under R.C. 5111.06(B)(2). O.D.J.F.S. has submitted a reply memorandum. This case is therefore ready for decision.

R.C. Chapter 119 appeals are permitted when there has been an “adjudication.” R.C. 119.01(D). The definition of “adjudication” includes the requirement that the decision be a “determination by the highest or ultimate authority.” The letter denying Appellants’ reconsideration request was issued by Carolyn Thurman, who is not the highest or ultimate authority at the Agency. (See Record p. 1628). The Director of the Agency is Michael Colbert. (See Ohio Government Job and Family Services). Furthermore, the decision was not an adjudication appealable under R.C. 119.12. *Springfield Fireworks, Inc. v. Ohio Dept. of Commerce*, 10th Dist. No. 03AP-330, 2003-Ohio-6940. A common pleas court has no jurisdiction to hear an appeal under R.C. 119.12 unless the agency decision constitutes an “adjudication.” Medicaid provider agreements, which is the basis for the payment dispute herein, are exempted from R.C. Chapter 119 appeals. R.C. 119.01(A)(2) and R.C. 119.01(B).

The Agency’s letter in response to Appellants’ inquiry could have been appealed, or reconsidered, by the deputy director in the office where the dispute arose. Ohio Admin. Code 5101:3-1-57 (B). The letter was simply a “review” of the previous claims pursuant to Ohio Admin. Code 5101: 3-1-19.9. That review is not subject to a R.C. Chapter 119 appeal. See R.C. 119.01(A) and (B). If this Court adopted Appellants’ line of reasoning and held that “payment determinations” were subject to administrative appeals, this Court would be inundated with thousands of appeals. This was certainly not intended by the legislature, and the Agency has provided for an internal administrative review of those payment decisions. Because Appellants failed to utilize this administrative process, it has failed to exhaust its administrative remedies barring this appeal. Ohio Admin. Code 5101: 3-1-57(B) and *Jain v. Ohio State Medical Board*, 10th Dist. No. 09AP-1180, 2010-Ohio-2855 (affirming trial court’s dismissal of an administrative appeal because the appellant failed to exhaust its administrative remedies).

Finally, Appellants’ contend the payment decision is properly before this Court because the review/decision constituted an “audit” pursuant to R.C. 5111.27(B), and as a result, is an appealable order pursuant to R.C. 5111.06(C). Appellants’ contention is without merit. The Court finds O.D.J.F.S.’s response to this argument persuasive and finds that the letter responding the Appellants’ payment redetermination request is not an audit or

a “final fiscal audit.” The Court adopts and incorporates by reference O.D.J.F S.’s reasoning and arguments set forth in pp. 5-8 of its Motion to Dismiss.

Based upon the foregoing, this Court **SUSTAINS** O.D.J.F.S.’s Motion and hereby **ORDERS** this action **DISMISSED**. Costs to Appellants.

Pursuant to Civ. 58(B), the Clerk of Courts is hereby directed to serve upon all parties notice and the date of this judgment.

**Copies to (via e-filing notification):**

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Franklin County Court of Common Pleas

**Date:** 07-26-2012  
**Case Title:** CLIFTON CARE CENTER ET AL -VS- OHIO  
STATE DEPT JOB & FAMILY SERVICES  
**Case Number:** 12CV004732  
**Type:** DECISION/ENTRY

It Is So Ordered.

The image shows a handwritten signature in black ink that reads "Mark Serrott". The signature is written over a blue circular seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "ALL THINGS ARE POSSIBLE" at the bottom. The seal also features a central emblem with a sun and a banner.

/s/ Judge Mark Serrott

Court Disposition

Case Number: 12CV004732

Case Style: CLIFTON CARE CENTER  
DEPT JOB & FAMILY SERVICES

ET AL -VS- OHIO STATE

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 12CV0047322012-05-2499980000

Document Title: 05-24-2012-MOTION TO DISMISS

Disposition: MOTION GRANTED