

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

|  |   |                     |
|--|---|---------------------|
| Regency Manor Rehabilitation and<br>Subacute Center, | : |                     |
|  | : |                     |
| Appellant,   | : |                     |
|  | : |                     |
| v.   | : | Case No. 12CVF 3680 |
|  | : |                     |
| Ohio Department of Job and<br>Family Services,       | : | JUDGE LYNCH         |
|  | : |                     |
| Appellee.  | : |                     |

**DECISION AND ENTRY GRANTING MOTION TO DISMISS  
OF APPELLEE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES,  
Filed April 26, 2012**

**LYNCH, J.**

This matter is before the Court upon the motion to dismiss of Appellee Ohio Department of Job and Family Services (“ODJFS” or “Appellee”), filed on April 26, 2012. Appellant Regency Manor Rehabilitation and Subacute Center (“Regency Manor” or “Appellant”) filed a memorandum in opposition, and ODJFS filed a Reply. The Court has considered all memoranda submitted.

It is the position of ODJFS that this court lacks subject matter jurisdiction over this appeal brought pursuant to R.C. 119.12 and therefore it must be dismissed. More specifically, ODJFS argues that Regency Manor failed to exhaust its administrative remedies by timely requesting a hearing after it received Notice of a proposed adjudication order regarding alleged Medicaid overpayments as required by R.C. 119.07. The Certified Record indicates that the proposed order was sent via Certified Mail on January 19, 2012 to Regency Manor’s Columbus business address and signed for on January 20, 2012, and

therefore, argues ODJFS, Regency Manor had until February 21, 2012 (due to weekends and a holiday occurring in the interim) to request a hearing, which it did not do.

In response, Regency Manor asserts that the requirements set forth in R.C. 119.07 were not met because the proposed adjudication order was not mailed to its corporate offices located in Cincinnati, Ohio. Regency Manor argues that under R.C. 119.07 and O.A.C. 5101:6-50-03, due process requires that the proposed adjudication order be sent to the "last known address" of Regency Manor – i.e., the Cincinnati address -- and because that was not accomplished it has been deprived of its rights under due process.

In rebuttal, ODJFS contends that it is indisputable that the proposed adjudication order was sent to Appellant at its Columbus business address and was signed for by an agent of Regency Manor. ODJFS argues that due process has been met under these circumstances, and that Regency Manor has cited no authority for its proposition that due process is met only when notice is sent to an address for which the recipient has expressed a preference. The Court agrees.

R.C. 119.07 provides in pertinent part:

\* \* \* Notice shall be given by registered mail, return receipt requested, and shall include the charges or other reasons for the proposed action, the law or rule directly involved, and a statement informing the party that the party is entitled to a hearing if the party he requests it within thirty days of the time of mailing the notice. \* \* \*

It is well-settled that the procedure set forth in R.C. 119.07 comports with due process. *See Harrison v. State Medical Bd. of Ohio* (1995), 103 Ohio App. 3d 317, 318. Under the facts of the Certified Record in the matter at hand, the Court finds that the notice requirements of R.C. 119.07, and thus due process, have been met. Because Regency Manor failed to timely request a hearing, it failed to exhaust its administrative remedies

prior to filing this appeal, and therefore this Court lacks subject matter jurisdiction over this matter. Accordingly **GRANTS** Appellee's motion to dismiss. Further, this decision renders **MOOT** the motion of Appellant Regency Manor to Admit Additional Evidence, filed on May 7, 2012, and renders **MOOT** the motion of Appellant Regency Manor to Consolidate Related Cases, filed May 1, 2012 (as it pertains to this matter before Judge Lynch only.)

**IT IS SO ORDERED.**

Electronic Copies to:

Harry M. Brown, Esq.  
Roger L. Schantz, Esq.  
Counsel for Appellant

Rebecca L. Thomas, Esq.  
Assistant Attorney General  
Counsel for Appellee

Franklin County Court of Common Pleas

**Date:** 06-05-2012

**Case Title:** REGENCY MANOR REHABILITATION & SUBACUTE -VS- OHIO  
STATE DEPARTMENT JOB & FAMILY SERVI

**Case Number:** 12CV003680

**Type:** DECISION/ENTRY

It Is So Ordered.

  
The signature is written in black ink and is cursive. It reads "Julie M. Lynch". To the right of the signature is a circular blue ink stamp. The stamp contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "ALL THINGS ARE POSSIBLE" at the bottom.

/s/ Judge Julie M. Lynch

Court Disposition

Case Number: 12CV003680

Case Style: REGENCY MANOR REHABILITATION & SUBACUTE -VS- OHIO  
STATE DEPARTMENT JOB & FAMILY SERVI

Case Terminated: 10 - Magistrate

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 12CV0036802012-04-2699980000  
Document Title: 04-26-2012-MOTION TO DISMISS  
Disposition: MOTION GRANTED
2. Motion CMS Document Id: 12CV0036802012-05-0199980000  
Document Title: 05-01-2012-MOTION TO CONSOLIDATE  
Disposition: MOTION IS MOOT
3. Motion CMS Document Id: 12CV0036802012-05-0799980000  
Document Title: 05-07-2012-MOTION  
Disposition: MOTION IS MOOT