

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

RICHARD VON MEYER

Plaintiff

v.

DEPARTMENT OF JOB AND FAMILY
SERVICES

Defendant

Case No. 2006-07694-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

{¶1} On December 15, 2005, plaintiff, Richard Von Meyer, applied for Qualified Medicare Benefits (“QMB”) Medicaid at the Montgomery County office of defendant, Ohio Department of Job and Family Services (“ODJFS”). On or about January 25, 2006, plaintiff’s application for QMB Medicaid was denied due to plaintiff’s failure to verify his financial resources. After his benefit application was denied, plaintiff was granted a discharge of debt under Chapter 7 of the U.S. Bankruptcy Code. On April 7, 2006, plaintiff filed an appeal of his denial of QMB Medicaid with the ODJFS state hearing officer (See R.C. 5101.35). The ODJFS state hearing officer made a decision on April 28, 2006, reversing the denial of QMB Medicaid; ordering the Montgomery County office of ODJFS to reopen the December 15, 2005 QMB Medicaid Application and reassess plaintiff’s eligibility. The April 28, 2006, decision also directed the Montgomery County ODJFS staff to assist plaintiff in obtaining verification of the value of his resources to prove benefit eligibility.

{¶2} On May 2, 2006, the Montgomery County ODJFS office reopened plaintiff’s QMB Medicaid application. As part of the application review process, written notice was sent to plaintiff requesting documentation verifying the value of his resources (essentially proof of eligibility, due date May 12, 2006). Defendant maintained no verifying documents were received and therefore, on May 15, 2006, the Montgomery County ODJFS

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caseworker denied plaintiff's reopened application for QMB Medicaid.

{¶3} Instead of filing an administrative appeal of the May 15, 2006, benefit denial determination, plaintiff filed a complaint against ODJFS in the Montgomery County Common Pleas Court. This complaint, filed August 9, 2006, is similar in form and content to the original complaint plaintiff filed in the Court of Claims. The August 9, 2006, complaint contained a representative record chronicling plaintiff's disagreement with the decision by ODJFS denying him QMB Medicaid benefits. Plaintiff asserted he did indeed provide verification of eligibility and insisted the verification was ignored. The August 9, 2006, complaint was an apparent attempt to appeal the decision made by ODJFS in denying him the requested benefits. Plaintiff claimed the evaluation process used by the Montgomery County ODJFS to determine his benefit eligibility was unfair. Plaintiff requested, "punitive damages in the amount of \$5000 plus costs."

{¶4} On November 7, 2006, the Montgomery County Common Pleas Court issued an entry dismissing plaintiff's action against ODJFS on lack of subject matter jurisdiction over the claim. In the dismissal entry the Montgomery County Common Pleas Court cited R.C. 2743.03(A)(1) which states:

{¶5} "There is hereby created a court of claims. The court of claims is a court of record and has exclusive, original jurisdiction of all civil actions against the state permitted by the waiver of immunity contained in section 2743.02 of the Revised Code, exclusive jurisdiction of the causes of action of all parties in civil actions that are removed to the court of claims, and jurisdiction to hear appeals from the decisions of the court of claims commissioners. The court shall have full equity powers in all actions within its jurisdiction and may entertain and determine all counterclaims, cross-claims, and third-party claims."

{¶6} The Common Pleas Court entry noted R.C. 2743.03(A)(1) vests jurisdiction over all civil actions against the state with the Court of Claims and not with the Common Pleas Court. This entry prompted plaintiff to file a complaint against ODJFS in this court. The November 7, 2006, entry of the Montgomery County Common Pleas Court did not

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mention the statutory provision contained in R.C. 2743.02(A)(1); except that this particular statutory section is referenced in the body of R.C. 2743.03(A)(1) as the entry cited.

{¶7} The jurisdiction of the Court of Claims is limited by R.C. 2743.02(A)(1) which provides in part:

{¶8} “(A)(1) The state hereby waives its immunity from liability, . . . and consents to be sued, and have its liability determined, in the court of claims created in this chapter in accordance with the same rules of law applicable to suits between private parties, except that the determination of liability is subject to the limitations set forth in this chapter . . . To the extent that the state has previously consented to be sued, this chapter has no applicability.”

{¶9} Plaintiff subsequently filed a complaint in this court expressing his dissatisfaction with the decisions by defendant in denying him benefits on two occasions. Plaintiff requested monetary relief of \$1,781.00, of which \$1,056.00 represented premiums paid, \$500.00 was requested for, “time and effort,” and \$225.00 was designated court filing expense (presumably the fee paid for filing a complaint in the Montgomery County Common Pleas Court). The \$25.00 filing fee for filing an action in this court was paid. Plaintiff asserted his injury, damage, or loss allegedly caused by defendant consisted of, “loss of the benefit for a year to date, the time and effort to counter the attempts by (ODJFS) personnel.” Plaintiff’s complaint under R.C. 2743.10 filed in this court is grounded in defendant’s determination in denying QMB Medicaid benefits and constitutes an attempt to appeal that determination. All claimed requests for monetary relief flow from the decision to deny benefit eligibility. Plaintiff never filed an internal appeal from the May 15, 2006, determination of the Montgomery County ODJFS denying him benefits.

{¶10} Defendant contended the Court of Claims does not have jurisdiction over the action filed by plaintiff which arose from an ODJFS decision to deny QMB Medicaid. Defendant cited *George v. Ohio Dept. of Human Services*, No. 04AP-351, 2005-Ohio-2292, to support its contention that this court lacks subject matter jurisdiction over claims

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which are essentially appeals from Medicaid eligibility determinations. In *George*, id. plaintiff filed a claim for resulting “damages” based on the assertion defendant incorrectly applied Ohio law in deciding ineligibility for Medicaid benefits. The 10th District Court of Appeals concluded the action filed was in reality an appeal from the validity of an administrative agency decision and the Court of Claims lacked subject matter jurisdiction over such an appeal attempt since these types of controversies are covered by mandated statutory procedure. It was noted in the *George* decision:

{¶11} “[T]he right to dispute the validity of an administrative decision is only conferred by statute and, if such a statutory right exists, the party aggrieved by the administrative decision can only seek an appeal via the method articulated in the statute. *Midwest Fireworks Mfg. Co., Inc. v. Deerfield Twp. Bd. of Zoning Appeals* (2001), 91 Ohio St. 3d 174, 177; *Harrison v. Ohio State Med. Bd.* (1995), 103 Ohio App. 3d 317, 321” at ¶132.

{¶12} Defendant, in the present action, has explained plaintiff has a proper statutory vehicle for seeking relief, R.C. 5101.35¹, and must follow the process provided by

¹ R.C. 5101.35, covering appeals by an applicant, participant or recipient provides in pertinent part:

(B) Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. A state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. Any person designated to make an administrative appeal decision on behalf of the director shall have been admitted to the practice of law in this state. An administrative appeal decision is the final decision of the department and is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the department may take action pursuant to section 5101.24 of the Revised Code. If another agency fails to comply within the time

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this statute to further pursue the matter of benefit eligibility. Defendant maintained plaintiff is confined to proceed under the statutorily-mandated process available and is consequently, precluded from obtaining relief in the Court of Claims for his self described damage claim that is essentially an appeal of an adverse benefit eligibility determination. Defendant asserted the Court of Claims does not have such appellate jurisdiction over plaintiff's benefit denial claim no matter what kind of "damages" are sought.

{¶13} The jurisdiction of the Court of Claims is limited by R.C. 2743.02(A)(1). This statutory provision clearly states this court has jurisdiction to render judgment only as to those complaints which, prior to the enactment of the Court of Claims Act, were precluded

limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may appeal to the court of common pleas of the county in which the person resides, or to the court of common pleas of Franklin county if the person does not reside in this state.

(2) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal.

(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following:

(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held.

(2) Administrative appeals under division (C) of this section;

(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under division (D) of this section.

(I) The requirements of Chapter 119. of the Revised Code apply to a state hearing or administrative appeal under this section only to the extent, if any, specifically provided by rules adopted under this section.

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by state immunity. Thus, where the state has previously consented to be sued, the Court of Claims lacks jurisdiction. *Fish v. Ohio Dept. of Transp.* (Sept. 29, 1988), Franklin App. No. 88AP-355, unreported 1988 WL 102002.

{¶14} Furthermore, “[a]n action in the Court of Claims cannot become a substitute for a statutorily created right of appeal [of an administrative decision] in a different court.” *Swaney v. Bur. of Workers’ Comp.* (Nov. 10, 1998), Franklin App. No. 98AP-299, 1988 Ohio App. LEXIS 5415. To hold otherwise would allow the Court of Claims to function as a court of review with the power to overrule an administrative decision by collateral attack. *Providence Hosp. v. McBee* (Mar. 17, 1983), Franklin App. No. 82AP-383. The Court of Claims lacks such appellate jurisdiction. *Bailey v. Ohio Dept. of Admin Servs.* (Mar. 5, 2002), Franklin App. No. 01AP-1062. See, also, *Helfrich v. Ohio Unemployment Comp. Bd. of Rev.* (May 20, 1999), Franklin App. No. 98AP-1074 (because appellant had a remedy through the administrative appeals process, the Court of Claims did not err in dismissing the complaint for lack of jurisdiction).

{¶15} In the present claim, plaintiff failed to request a hearing with defendant following the May 15, 2006, denial of benefits. ODJFS provides an appeal process for individuals such as plaintiff who are in conflict with the agency’s decision. This appeal process was in place prior to the enactment of the Court of Claims Act as the state had previously consented to be sued by providing appeal procedures for administrative agencies to follow. See R.C. 119.12. The plaintiff had the right to appeal the Director’s Determination and therefore, the Court of Claims cannot serve as the proper venue for this complaint. See *Jones v. Ohio Department of Job and Family Services* (2006), 2006-01939-AD. This court lacks subject matter jurisdiction over plaintiff’s action and the claim is consequently dismissed.

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RICHARD VON MEYER

Plaintiff

v.

OHIO DEPARTMENT OF JOB AND
FAMILY SERVICES

Defendant

Case No. 2006-07694-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF ADMINISTRATIVE
DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, plaintiff's case is DISMISSED with prejudice for lack of subject matter jurisdiction. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Richard Von Meyer
440 Towers Drive
Apt. 1109
Dayton, Ohio 45410

Helen Jones-Kelley, Director
Ohio Department of Job and
Family Services
Office of Legal Services
30 East Broad Street, 31st Floor

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Columbus, Ohio 43215

RDK/laa
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