

[Cite as *Estep v. Ohio Dept. of Job & Family Servs.*, 2013-Ohio-82.]

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Shirley Estep,	:	
Appellant-Appellant,	:	
v.	:	No. 12AP-438 (C.P.C. No. 11CVF-10-12858)
Ohio Department of Job and Family Services,	:	(REGULAR CALENDAR)
Appellee-Appellee.	:	
Edward Hart,	:	
Appellant-Appellant,	:	
v.	:	No. 12AP-490 (C.P.C. No. 12CVF-02-1612)
Ohio Department of Job and Family Services,	:	(REGULAR CALENDAR)
Appellee-Appellee.	:	

D E C I S I O N

Rendered on January 15, 2013

The Legal Aid Society of Columbus, Kathleen C. McGarvey and Julie Restifo, for appellants.

Michael DeWine, Attorney General, and Rebecca L. Thomas, for appellee.

APPEALS from the Franklin County Court of Common Pleas

KLATT, P.J.

{¶ 1} This decision addresses two appeals that this court combined because they raise identical legal issues. In appeal No. 12AP-438, appellant, Shirley Estep, appeals from a judgment of the Franklin County Court of Common Pleas that dismissed Estep's administrative appeal against appellee, the Ohio Department of Job and Family Services ("ODJFS"), for lack of jurisdiction. In appeal No. 12AP-490, appellant, Edward Hart, appeals from a judgment of the Franklin County Court of Common Pleas that dismissed Hart's administrative appeal against appellee, ODJFS, for lack of jurisdiction. For the following reasons, we affirm the judgments in both cases.

{¶ 2} Estep applied for Medicaid disability benefits and Disability Financial Assistance. The Franklin County Department of Job and Family Services ("FCJFS") assisted Estep in obtaining medical information to support her claim that she was disabled due to back, neck, knee, and right hand pain, as well as anxiety and depression. FCJFS submitted that information to the Disability Determination Area ("DDA"), an administrative unit that is part of ODJFS. After reviewing the information, DDA determined that Estep was not disabled, and thus, she was ineligible for any benefits.

{¶ 3} Estep appealed from DDA's determination. Pursuant to R.C. 5101.35(B), ODJFS granted Estep a state hearing before a hearing officer. At the hearing, Estep presented evidence of additional, previously unmentioned impairments, including asthma and anemia. Estep also introduced additional medical records to support her claim of back and neck pain. FCJFS had not submitted those medical records to DDA, so DDA could not have considered them when deciding whether Estep was disabled.

{¶ 4} The hearing officer recommended that the hearing authority sustain Estep's appeal. The hearing officer based that recommendation on his conclusions that: (1) DDA did not have before it all the available medical information regarding each of Estep's impairments and (2) DDA did not consider the combined effects of all of Estep's impairments, in part, because DDA did not receive notice of all the alleged impairments. The hearing officer also recommended that the hearing authority order FCJFS to:

1. Rescind the denial [of benefits] and return [Estep's] case to pending status.
2. Assist [Estep] with collecting medical information necessary to support each of her alleged impairments,

including asthma and anemia. If necessary, [FCJFS] shall utilize administrative funds to assist [Estep] in obtaining the medical information.

3. Assist [Estep] with collecting the medical information requested by DDA in the 11/22/2010 deferral. If necessary, [FCJFS] shall utilize administrative funds to assist [Estep] in obtaining the medical information.

4. Upon receipt of the requisite medical information, complete a new JFS 07004 "Social Summary Report" and submit a new [county medical services, or "CMS,"] packet to DDA for a disability determination based on all of the impairments alleged by [Estep].

(R. 13 at 002 of the Initial Hearing Record.) The hearing authority adopted the hearing officer's recommendation to sustain Estep's appeal and ordered FCJFS to comply with the terms that the hearing officer set forth.

{¶ 5} Pursuant to R.C. 5101.35(C), Estep sought an internal ODJFS review of the state hearing decision.¹ Estep asserted that ODJFS owed her a decision on the merits of her disability claim. ODJFS disagreed, stating:

In this case, it is clear that DDA failed to consider all of [Estep's] alleged impairments or receive all of the submitted documentation. We, therefore, find that the hearing officer correctly determined that there was additional medical evidence that would be necessary to completely analyze [Estep's] disability claim. The state hearing decision is correct.

(R. 13 at 003 of the Administrative Appeal Record.)

{¶ 6} Relying on R.C. 5101.35(E), Estep appealed ODJFS' decision to the trial court. Estep requested that the trial court review the medical evidence in the record and find her disabled. The trial court, however, held that it lacked jurisdiction over Estep's appeal because the order that Estep appealed was not an "adjudication" order. The trial court found that the order at issue did not determine Estep's rights, privileges, benefits, or legal relationships—a necessary quality in an adjudication order. The trial court characterized the order at issue as an interlocutory order as it merely directed further

¹ R.C. 5101.35(C) refers to this step of the appeal process as an "administrative appeal."

investigation into and consideration of Estep's claim by the administrative entities charged with implementing the initial stages of the benefits eligibility process.

{¶ 7} Like Estep, Hart also applied for Medicaid disability benefits and Disability Financial Assistance. Hart claimed that he was disabled due to seizures, knee pain, depression, and asthma. After evaluating Hart's medical information, DDA determined that Hart was not disabled by the claimed impairments, and thus, it denied his application for benefits. Hart requested and received a state hearing. During the hearing, Hart alleged for the first time that he also had liver disease and a past traumatic brain injury. Given these newly alleged impairments, the hearing authority sustained Hart's appeals and ordered FCJFS to assist Hart in collecting medical information regarding the impairments and forward that information to DDA for review. FCJFS complied. DDA evaluated the additional medical information that it received, and it again determined that Hart was not disabled. Hart appealed DDA's second determination, which resulted in a second state hearing.

{¶ 8} At the second state hearing, Hart again disclosed new impairments—a gunshot wound to the neck, hepatitis C, and ankle pain. Hart also provided the hearing officer with medical documentation that DDA had not previously seen. Based on the new impairments and new medical documentation, the hearing officer recommended that the hearing authority sustain Hart's appeals. The hearing officer also recommended that the hearing authority require FCJFS to return Hart's benefits application to pending status and submit the new medical documentation to DDA for another disability determination. The hearing authority adopted all of the hearing officer's recommendations.

{¶ 9} Hart appealed the state hearing decision to ODJFS, which found that the decision was correctly decided. Hart then appealed ODJFS' decision to the trial court. Like Estep, Hart requested that the trial court find him disabled. The trial court dismissed Hart's appeal for lack of jurisdiction. The trial court explained:

The above determination by [ODJFS] was not a final adjudication subject to this Court's review. This Court is not free to speculate as to the ultimate outcome of the administrative process. * * * There has not been a final decision by the highest authority finding that [Hart] is disabled or not disabled. There is no right to appeal at this time.

(R. 21 at 3-4.)

{¶ 10} Both Estep and Hart appeal from the trial court's judgments dismissing their appeals. They assign the following error:

The lower courts' opinions finding that the administrative appeal decisions were not final appealable orders were erroneous because the plain text of R. C. 5101.35 states that an administrative appeal decision is the final decision of the agency, a claimant who disagrees with the administrative appeal decision can appeal to common pleas court, and filing notice of appeal is the only act necessary to vest jurisdiction with the court.

{¶ 11} Resolving this appeal requires this court to engage in statutory interpretation to determine the extent of the trial court's subject-matter jurisdiction. Thus, we confront a question of law that we review de novo. *Columbus City School Dist. Bd. of Edn. v. Testa*, 130 Ohio St.3d 344, 2011-Ohio-5534, ¶ 12 (statutory construction reviewed de novo); *L & F Tavern, Inc. v. Ohio Liquor Control Comm.*, 10th Dist. No. 09AP-873, 2010-Ohio-1025, ¶ 11 (jurisdiction reviewed de novo).

{¶ 12} R.C. 5101.35 specifies the appeal process for challenging a decision or order of an agency administering a family services program. First, an appellant may request a state hearing, which results in a state hearing decision that either sustains or overrules the issues that the appellant raised in the appeal. R.C. 5101.35(B); Ohio Adm.Code 5101:6-7-01(D)(5)-(6) (directing hearing officers to sustain those issues "in which the agency is found to have acted incorrectly, and overrul[e] those [issues] in which the agency's action was correct"). Second, "an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services * * *." R.C. 5101.35(C); *see also* Ohio Adm.Code 5101:6-8-01(A). The director or the director's designee may affirm, modify, remand, or reverse the state hearing decision. R.C. 5101.35(C); Ohio Adm.Code 5101:6-8-01(I). R.C. 5101.35(E) addresses the third level of appeal. That division states:

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.

{¶ 13} "Jurisdiction" refers to a court's " 'statutory or constitutional power to adjudicate the case.' " *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, ¶ 11, quoting *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 89 (1998). Courts of common pleas only have "such powers of review of proceedings of administrative officers and agencies as may be provided by law." Ohio Constitution, Article IV, Section 4(B); *see also Springfield Fireworks, Inc. v. Ohio Dept. of Commerce*, 10th Dist. No. 03AP-330, 2003-Ohio-6940, ¶ 17. Thus, courts of common pleas lack jurisdiction to review actions of administrative agencies unless R.C. 119.12 or some other specific statutory authority grants it. *Total Office Prods. v. Dept. of Adm. Servs.*, 10th Dist. No. 05AP-955, 2006-Ohio-3313, ¶ 12.

{¶ 14} Here, R.C. 5101.35(E) permits an administrative appeal to a common pleas court "pursuant to section 119.12 of the Revised Code." "Pursuant to" means " '[i]n compliance with; in accordance with; * * * [a]s authorized by; under.' " *State v. Niesen-Pennycuff*, 132 Ohio St.3d 416, 2012-Ohio-2730, ¶ 19, quoting *Black's Law Dictionary* 1356 (9th Ed.2009). It connotes rigid compliance. *Id.* Thus, an appeal based on R.C. 5101.35(E) must comply with the strictures of R.C. 119.12.²

{¶ 15} Generally, R.C. 119.12 only allows appeals of orders issued pursuant to an adjudication. " 'Adjudication' means the determination by the highest or ultimate authority of an agency of the rights, duties, privileges, benefits, or legal relationships of a specified person * * *." R.C. 119.01(D). In the absence of an "adjudication" as defined by R.C. 119.01(D), common pleas courts lack jurisdiction to review an agency's decision. *Springfield Fireworks, Inc.* at ¶ 25.

{¶ 16} We agree with the trial court that R.C. 119.12's adjudication requirement bars Estep's and Hart's appeals. Estep and Hart sought a determination of benefits; i.e., a decision as to whether or not they were eligible for Medicaid and Disability Financial Assistance. Neither ODJFS decision made such a determination. Rather, ODJFS deferred that determination to allow for further evidence gathering and review at the initial stages of the determination process. Without a determination of benefits, ODJFS' decisions are not adjudications. We thus conclude that the trial court lacked jurisdiction to review Estep's and Hart's appeals.

{¶ 17} In arguing to the contrary, appellants contend that the adjudication requirement does not apply to R.C. 5101.35(E) appeals because R.C. 5101.35(E)(3) states that "[f]iling [a] notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court." We do not perceive any conflict between application of the adjudication requirement and the dictates of R.C. 5101.35(E)(3). In a typical R.C. 119.12 appeal, the common pleas court does not attain jurisdiction unless the appellant strictly complies with multiple filing requirements, including filing the notice of appeal at the appropriate time and places and stating the grounds for appeal. *Siegler v. Ohio State Univ.*, 10th Dist. No. 10AP-421, 2011-Ohio-2485, ¶ 4. R.C. 5101.35(E)(3) mandates that

² We, of course, recognize that R.C. 5101.35(E) carves out certain exceptions to that compliance. We will address the exceptions below.

the appellant only need perform one act—filing of the notice of appeal with the court—to establish jurisdiction, rather than the multiple acts required by R.C. 119.12. *See Hummel v. Ohio Dept. of Job & Family Servs.*, 6th Dist. No. L-05-1137, 2005-Ohio-6651, ¶ 19 (holding that R.C. 5101.35(E)(3) superceded R.C. 119.12's requirement that a notice of appeal state the grounds of the appeal). Here, appellants completed the one act that they needed to perform for the trial court to acquire jurisdiction. However, in addition to appellants' compliance with the single filing requirement, jurisdiction also depends on the agency's issuance of an adjudication order. Absent both elements, the trial court could not obtain jurisdiction over appellants' appeals.

{¶ 18} Appellants also argue that R.C. 119.12 only applies to the appeal process after an appellant has perfected his or her appeal. They thus reason that the adjudication requirement, which is part of the R.C. 119.12 perfection process, does not restrict their ability to appeal. We disagree. Nothing in R.C. 5101.35(E) so limits the application of R.C. 119.12. Moreover, the very existence of the R.C. 5101.35(E)(1) and (3) exceptions contradicts this argument. Both of those exceptions set forth measures different from those provided in R.C. 119.12 to govern the perfection of an R.C. 5101.35(E) appeal. The General Assembly would not have included either exception if it believed that the parts of R.C. 119.12 regarding perfecting an appeal did not apply to R.C. 5101.35(E) appeals. Under appellants' interpretation of R.C. 5101.35(E), R.C. 5101.35(E)(1) and (3) would be superfluous. Courts must avoid a statutory construction that would render any provision meaningless, inoperative, or superfluous. *Rhodes v. New Philadelphia*, 129 Ohio St.3d 304, 2011-Ohio-3279, ¶ 23. Consequently, we reject appellants' argument.

{¶ 19} Finally, appellants repeatedly assert that, under R.C. 5101.35(C), ODJFS' administrative appeal decisions are "final." Whether a decision is "final" or not has no bearing on the operative issue in this case—whether ODJFS' decisions constituted adjudication orders. Therefore, we conclude that the statutory designation of ODJFS' decisions as "final" does not present a reason to reverse the trial court.

{¶ 20} For the foregoing reasons, we overrule appellants' sole assignment of error, and we affirm the judgments of the Franklin County Court of Common Pleas.

Judgments affirmed.

CONNOR and DORRIAN, JJ., concur.
