

Before the
Administrative Hearing Commission
State of Missouri



HILLCREST ASSISTED LIVING,)	
)	
Petitioner,)	
)	
v.)	No. 13-1727 SP
)	
DEPARTMENT OF SOCIAL SERVICES,)	
MISSOURI MEDICAID AUDIT AND)	
COMPLIANCE UNIT,)	
)	
Respondent.)	

DECISION

We dismiss the complaint filed by Hillcrest Assisted Living (“Hillcrest”) because we lack jurisdiction to hear it.

Procedure

Hillcrest filed a complaint on October 1, 2013, appealing the cancellation of skilled nursing care benefits for two of its clients by the Department of Social Services (“the Department”). We opened the complaint against the Missouri Medicaid Audit and Compliance Unit, an agency assigned to the Department.

Another agency assigned to the Department, the MO HealthNet Division, filed a motion to dismiss Hillcrest’s complaint on November 1, 2013. We notified Hillcrest that it could file a

response to the motion through a licensed attorney¹ by November 18, 2013, but Hillcrest filed no response.

Regulation 1 CSR 15-3.436² provides:

(3) The commission may grant a motion for involuntary dismissal based on a preponderance of admissible evidence. Admissible evidence includes an allegation in the complaint, stipulation, discovery response of the petitioner, affidavit, or other evidence admissible under the law[.]

* * *

(4) If a motion for involuntary dismissal relies on matters other than allegations in the complaint and stipulations, the commission shall either –

(A) Treat the motion for involuntary dismissal as a motion for summary decision under rule 1 CSR 15-3.446; or

(B) Convene an evidentiary hearing on the motion.

Mo HealthNet's motion relies on Hillcrest's complaint and the attachments thereto, as well as unauthenticated copies of orders issued by hearing officers for the Family Support Division – yet another of the Department's divisions. The latter are not admissible evidence. *See Blunt v. Gillette*, 124 S.W.3d 502, (Mo. App. S.D. 2004) (circuit court of one county has no authority to take judicial notice of court records of another county; without certification of such court records, they are not admissible as evidence).

Nevertheless, from Hillcrest's complaint, we are able to find the following facts.

Findings of Fact

1. Hillcrest is an assisted living facility. Some of its clients are eligible for skilled nursing care benefits administered the Department.

¹ There is no evidence in the record whether Hillcrest is a corporation or some other form of legal entity.

² All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

2. On September 19, 2013, Hillcrest received a “MO HealthNet Vendor Notice” that eligibility for one of its clients, T.R., had been terminated on September 13, 2013.

3. T.R., the client, received a “MO HealthNet Action Notice” on the same date. The client notice informs the client that she may request a hearing by contacting the local Family Support Division office.

4. Another Hillcrest client, P.R., received a similar cancellation notice dated August 20, 2013.

Conclusions of Law

We have jurisdiction of appeals from some of the decisions made by the Department and its divisions. *See* § 208.156.2, .3, .4, .and .5.³ But appeals by applicants for or recipients of benefits or services provided by the division of family services must appeal to the director of the division of family services from a decision of a county office of the division of family services. § 208.080.1.

As an administrative tribunal, our jurisdiction comes from the statutes alone. *State Bd. of Regis'n for the Healing Arts v. Masters*, 512 S.W.2d 150, 161 (Mo. App., K.C.D. 1974). If we have no jurisdiction to hear a petition, we cannot reach the merits of the case and can only exercise our inherent power to dismiss. *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App., E.D. 2000). We may order involuntary dismissal of a complaint for lack of jurisdiction and based on a preponderance of the evidence.

From Hillcrest’s complaint, we determine that it has appealed two decisions of the Department that must be appealed by the affected clients to the Division of Family Services, not to this Commission. Thus, we lack jurisdiction to hear the complaint, and must dismiss it.

³ Statutory references are to the RSMo 2000 unless otherwise noted.

Summary

We dismiss Hillcrest's complaint.

SO ORDERED on November 25, 2013.

\s\ Karen A. Winn

KAREN A. WINN

Commissioner