

The South Carolina Court of Appeals

Genesis Health Care, Inc., Appellant,

v.

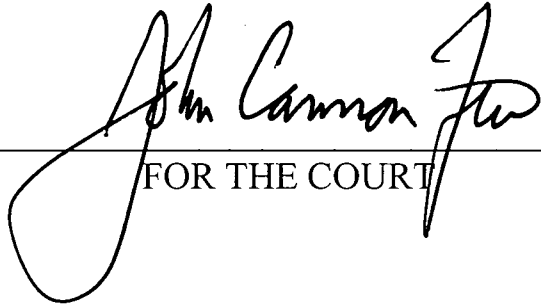
South Carolina Department of Health and Human
Services, Respondents.

Appellate Case No. 2014-000927

ORDER

Appellant is attempting to appeal two orders of the Hearing Officer of the South Carolina Department of Health and Human Services, Division of Appeals and Hearings. Respondent has filed a motion for remand, arguing the orders are interlocutory and this court lacks appellate jurisdiction. Appellant has filed a return, arguing the court of appeals is the appropriate forum and the underlying orders are immediately appealable. Specifically, Appellant argues the Hearing Officer's denial of Appellant's request for a stenographer or court reporter and denial of Appellant's request to subpoena Anthony Keck are immediately appealable pursuant to section 1-23-380 of the South Carolina Code (Supp. 2013) because they cannot be remedied by a review of the final agency decision.

Any issue relating to the Hearing Officer's refusal to issue a subpoena is not immediately appealable. *See Oncology and Hematology Assocs. v. DHEC*, 387 S.C. 380, 381 n. 1, 692 S.E.2d 920, 921 n.1 (2010) (noting that discovery orders issued by the ALC are not immediately appealable). As to the denial of Appellant's request for a stenographer, we disagree with Appellant's assertion that review of a final decision of the Department and the ALC would not provide an adequate remedy. S.C. Code Ann. § 1-23-380 (Supp. 2013) (providing a preliminary, procedural, or intermediate agency ruling is immediately reviewable only if review of the final agency decision would not provide an adequate remedy). Accordingly, we dismiss this appeal and remand this matter to the Department.


C.J.
FOR THE COURT

Columbia, South Carolina

cc:

A. Camden Lewis, Esquire
James Mixon Griffin, Esquire
John M. Milling, Esquire
Tony Ray Megna, Esquire
Richard G. Hepfer, Esquire
Ariail Elizabeth King, Esquire

FILED
8/19/14