

STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES  
Before the Director of Insurance and Financial Services

Department of Insurance and  
Financial Services,  
Petitioner

v  
Meritain Health, Inc.  
Respondent

Case No. 12-886-L  
Docket No. 12-001572

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Issued and entered  
this 31<sup>ST</sup> day of March 2013  
by R. Kevin Clinton  
Director

**FINAL DECISION**

This matter concerns a compliance case initiated by the Office of Financial and Insurance Regulation<sup>1</sup> alleging that the Respondent had failed to comply with certain provisions of the Michigan Insurance Code and General Insurance Laws. A hearing was scheduled to adjudicate the matter. The parties have now reached a settlement agreement resolving all issues in this case. The settlement agreement has been approved by the appropriate agency official.

After settlement, the agency staff filed with the administrative law judge (ALJ) a "Motion to Remove Case from the Hearing Docket." The ALJ then issued, on February 6, 2012, an "Order of Dismissal." This order approved the motion to remove the case from the hearing docket as requested. However, the ALJ's order also purports to dismiss the case itself. This portion of the order goes well beyond the scope of the agency's motion and exceeds the authority of an administrative law judge in a contested case.

Section 81(1) of the Administrative Procedures Act of 1969, MCL 24.281(1), provides:

When the official or a majority of the officials of the agency who are to make a final decision have not heard a contested case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served on the parties, and an opportunity is

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1. After this case was initiated, the Governor transferred the authority, powers, duties, functions, and responsibilities of the Commissioner of Financial and Insurance Regulation to the Director of the Department of Insurance and Financial Services (the Director) by Executive Order 2013-1 effective March 18, 2013. The Director now has the authority to conduct formal administrative hearings.

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given to each party adversely affected to file exceptions and present written arguments to the officials who are to make the decision....

Thus, a final decision may only be issued by the agency or official authorized to make a final decision. In this case, that official is the Director of the Department of Insurance and Financial Services. Consequently, that portion of the ALJ's order which purports to dismiss the case is hereby vacated.

It is ORDERED that this matter is dismissed.



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R. Kevin Clinton  
Director