

**STATE OF WASHINGTON
HEALTH CARE AUTHORITY
BOARD OF APPEALS**

In Re:)	Docket No. 11-2016-HCA-06661
)	
[APPELLANT])	ORDER CORRECTING ERROR
)	
Appellant)	Medical Assistance Eligibility—LTC

On [DATE], the representative for the Department of Social and Health Services (DSHS) filed a late¹ petition for reconsideration of the *Review Decision and Final Order* issued on [DATE], noting that there was a date error in the [DATE], decision. The Health Care Authority (HCA) Board of Appeals (BOA) has historically held that there is no authority under the rules set forth in Chapter 182-526 WAC to accept a late reconsideration request, regardless of whether good cause is shown.²

WAC 182-526-0540 permits correction of a clerical mistake in an *Initial Order* if the request for correction is made on or before the 10th calendar day after issuance of the order per WAC 182-526-0550(1). There is no analogous provision for correcting final orders even if a request for correction is timely. Consequently, although the HCA BOA may receive requests to correct final orders with typographical errors, there is no explicit statutory or regulatory authority to do so unless a timely reconsideration petition is received.

There is no rule that specifically prohibits the HCA BOA from issuing a corrected order, and it should do so if there is a significant mistake identified in the final order per *Hall v. Seattle*, 24 Wn. App. 357, 362 (1979).³ According to this opinion, ...it will ill serve the public interest to deny an agency the right to correct its own obvious mistakes when that can be done promptly and fairly... [courts] have recognized that in such limited circumstances, there is an exception to the general rule that an agency does not have the authority to reopen and reconsider a final decision in the absence of a specific statute, charter or ordinance authorizing it.⁴

Based on *Hall v. Seattle*, the undersigned has authority to correct the scrivener's errors in Conclusion of Law 21 and Decision and Order 2 on page 18 of the [DATE], *Review Decision and Final Order*, and to make them consistent with the dates set forth in Finding of Fact 9 on page 5 and exhibit 8 in the hearing record. Specifically, the correct dates of the Appellant's penalty period of ineligibility are **[DATE], through [DATE]**, as stated in Finding of Fact 9, for her uncompensated transfer of assets on [DATE]. These are the only changes to the [DATE], *Review Decision and Final Order*, which otherwise remains the final administrative decision in this matter.

¹ Pursuant to WAC 182-526-0620, the HCA BOA must receive a written request for reconsideration or a request to extend the filing deadline on or before the 10th calendar day after the *Final Order* was issued.

² See WAC 182-526-0620.

³ See also *Motley-Motley, Inc. v. PCHB*, 127 Wn. App. 62, 74 (2005) (citing *Tuerk v. Dep't of Licensing*, 123 Wn.2d 120, 125 (1994) and stating "[a]n agency's implied authority is its power to do those things that are necessary in order to carry out the statutory delegation of authority").

⁴ *Hall v. Seattle*, 24 Wn. App. 357, 362 (1979) (citing *Comment Note: Power of administrative agency to reopen and reconsider final decision as affected by lack of specific statutory authority*, Annot., 73 A.L.R.2d 933, 951-52 (1960); 2 Am. Jur. 2d *Administrative Law* § 524, at 336 (1962)).

Mailed on the 3rd day of March 2017.

DIAMANTA TORNATORE
Review Judge/Board of Appeals

Legal Authority: RCW 34.05.464, 470; WAC 182-526-0605 through -0635

Attached: Completed Petition for Reconsideration of Review Decision form

Copies have been sent to: [APPELLANT], Appellant
[APPELLANT REP], Appellant Representative
Dianne Storms, Agency Representative, MS: B19-03
Stacy Graff, Program Administrator, MS: 45600
Evelyn Cantrell, Appeals Administrator, MS: 45504
James L. Studt, ALJ, [CITY] OAH

IF YOU DISAGREE
YOU HAVE THE RIGHT TO APPEAL TO SUPERIOR COURT

DEADLINE for Superior Court Cases - **30 DAYS**: The Superior Court, the Board of Appeals, and the state Attorney General's Office **must all RECEIVE** copies of your Petition for Judicial Review within thirty (30) days from the date stamped on this order.

Refer to the Revised Code of Washington (RCW), including chapter 34.05, the Washington Administrative Code (WAC), and to the Washington Rules of Court (civil) for guidance. These materials are available in all law libraries and in most community libraries.

If You Need Help: Ask friends or relatives for a reference to an attorney, or contact your county's bar association or referral services (usually listed at the end of the "attorney" section in the telephone book advertising section). Some law schools, and other non-profit legal organizations may be able to provide assistance. **You are not guaranteed an attorney free of charge.**