

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Cynthia Smith,	:	
Petitioner	:	
	:	
v.	:	
	:	
Department of Human Services,	:	No. 804 C.D. 2025
Respondent	:	Submitted: July 24, 2026

BEFORE: HONORABLE ANNE E. COVEY, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE STACY WALLACE, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
JUDGE COVEY

FILED: October 7, 2026

Cynthia Smith (Smith), pro se, petitions this Court for review of the Department of Human Services' (Department), Bureau of Hearings and Appeals' (BHA) April 21, 2025 Final Administrative Action (Final Order) upholding the March 28, 2025 denial of Smith's appeal from a January 18, 2025 order precluding her discharge from Kingston Nursing and Rehabilitation Center (Kingston) for nonpayment. The sole issue before this Court is whether Smith's appeal is timely. After review, this Court quashes Smith's appeal as untimely.

Smith was a skilled care resident at Kingston. On January 10, 2023, the Luzerne County Assistance Office determined that Smith was required to pay Kingston for a portion of her care. Between October 2023 and February 2024, Kingston repeatedly notified Smith of her responsibility to pay, and her mounting debt.¹ On November 27, 2024, Kingston's nursing home administrator issued Smith

¹ Kingston filed for bankruptcy and Eden East Healthcare Management began operating Kingston pending Kingston's sale.

a preliminary notice of intent to discharge her for nonpayment, and scheduled a meeting to plan Smith's discharge date and location. After Smith failed to appear for her discharge planning meeting, on December 3, 2024, Kingston issued Smith a notice of involuntary discharge to the local Days Inn. On December 23, 2024, Smith appealed from the discharge notice. Following several procedural steps necessary to perfect Smith's appeal, on January 28, 2025, BHA issued Kingston a preclusion order prohibiting Smith's discharge pending her appeal (Preclusion Order).

Following hearings, on March 28, 2025, an Administrative Law Judge (ALJ) issued an order denying Smith's appeal and lifting the Preclusion Order, thereby allowing her discharge from Kingston. *See* Certified Record (C.R.) at 115-128. On April 21, 2025, the BHA issued the Final Order, therein specifying that if Smith wished to request reconsideration by the Department's Secretary, the BHA had to receive the request within 15 calendar days "from the date of th[e] [Final] Order."² C.R. at 114.

On May 13, 2025, the BHA received a letter from Smith, wherein she expressed that she was attempting to request reconsideration, and also intended to appeal from the Final Order. *See* C.R. at 130-131. On May 28, 2025, this Court received Smith's pro se appeal letter. By June 3, 2025 notice (Notice), this Court informed Smith that she must file a petition for review in order to perfect her appeal, and instructed her how to do so. The Notice declared: "The date of **May 24, 2025 will be preserved as the date of filing your appeal.** This is the date your communication indicating your intention to appeal was filed with this Court." Notice at 1 (emphasis added). The Notice further warned: "**If this date is more**

² Although the date in the body of the Final Order was April 21, 2025, the date next to the signature line specified that the "Final Administrative Action [a]nd Mailing Date" was April 18, 2025. C.R. at 114.

than 30 days from the mailing date of the decision that you are appealing, your appeal may be dismissed because it is untimely.” *Id.* (emphasis added).

Pennsylvania Rule of Appellate Procedure (Rule) 1512(a)(1) mandates that “[a] petition for review of a quasijudicial order . . . shall be filed with the prothonotary of the appellate court within 30 days after entry of the order.” Pa.R.A.P. 1512(a)(1); *see also G.R.S. v. Dep’t of Hum. Servs.*, 329 A.3d 770 (Pa. Cmwlth. 2025). This Court has explained:

[T]he **failure to timely appeal an administrative agency’s action is a jurisdictional defect** and [] the time for taking an appeal “cannot be extended as a matter of grace or mere indulgence.” *V.S. v. Dep[’t] of Pub[.] Welfare*, 131 A.3d 523, 527 (Pa. Cmwlth. 2015) (quoting *J.C. v. Dep[’t] of Pub[.] Welfare*, 720 A.2d 193, 197 (Pa. Cmwlth. 1998)). Further, the timeliness of an appeal is a jurisdictional question that cannot be waived and may be raised at any stage of the proceedings by any party, or by the Court *sua sponte*. *Weber v. Wyoming Valley W[.] Sch[.] Dist[.]*, 668 A.2d 1218, 1221 (Pa. Cmwlth. 1995). An untimely appeal “**must be quashed absent a showing of fraud or breakdown in the court’s operation.**” *Thorn v. Newman*, . . . 538 A.2d 105, 107 ([Pa. Cmwlth.] 1988).

G.R.S., 329 A.3d at 773 (emphasis added).

Here, Smith filed her pro se letter seeking to appeal from the BHA’s April 21, 2025 Final Order on May 24, 2025, 34 days after the BHA issued the Final Order and 4 days after the appeal period prescribed by Rule 1512(a)(1) expired. Thus, her appeal was late-filed. Smith did not address timeliness in her brief, nor did she state any reason this Court could construe as fraud, or a breakdown in this

Court's operation, that precluded her from filing her appeal in a timely manner.³ *See G.R.S.*

Because Smith failed to timely appeal from the BHA's Final Order, this Court lacks subject matter jurisdiction to consider it. *See Tishok v. Dep't of Educ.*, 133 A.3d 118, 122 n.2 (Pa. Cmwlth. 2016) ("failure to timely appeal is a jurisdictional defect"). Accordingly, Smith's appeal is quashed.

ANNE E. COVEY, Judge

³ Although Smith filed her brief 12 days *after* the Department filed its brief, and the Department's brief, *inter alia*, apprised Smith of the Department's request to dismiss her appeal as untimely filed, Smith's entire argument consisted solely of the following statement:

The decision of the [BHA] is wrong based on case 35K0095-001, year 2022. At this same address, a hearing was conducted with the "order" going in my favor. The judge concluded that since I had no family, along with my health concerns, and limited finances, I was to stay or move to another facility.

Smith Br. at 7.

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ORDER

AND NOW, this 7th day of October, 2026, Cynthia Smith's appeal from the Department of Human Services', Bureau of Hearings and Appeals' April 21, 2025 Final Administrative Action is quashed.

ANNE E. COVEY, Judge