

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Merakey Philadelphia,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 1151 C.D. 2024
	:	
	:	
Department of Human Services,	:	
	:	
Respondent	:	Submitted: July 7, 2025

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge
HONORABLE MATTHEW S. WOLF, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
JUDGE WOLF

FILED: September 26, 2025

Merakey Philadelphia (Merakey) petitions for review of an August 5, 2024 order of the Secretary of the Department of Human Services (Secretary) that denied as untimely filed Merakey's request for reconsideration of the Department of Human Services, Bureau of Hearing and Appeals' (BHA) final administrative action mailed February 2, 2024. For the reasons that follow, we dismiss Merakey's petition for review.

Our disposition requires only a brief procedural history of this case. On February 2, 2024, the BHA issued a final administrative action adopting an administrative law judge's recommendation that Merakey's appeal of the Department's June 13, 2023 and June 14, 2023 final cost settlement notices be dismissed as untimely filed. Certified Record (C.R.) Section 4. By application filed May 21, 2024, Merakey sought reconsideration of the BHA's February 2, 2024 order

nunc pro tunc. *Id.*, Section 5. On August 5, 2024, the Secretary issued an order denying Merakey’s request for reconsideration as untimely filed. *Id.*, Section 6. On September 3, 2024, Merakey petitioned this Court for review of the Secretary’s order denying reconsideration.

Pursuant to 55 Pa. Code § 41.212(b), a request for reconsideration “shall be filed within 30 days of the mailing date of the [BHA] determination” and “[a]n untimely request for review will be dismissed as of course.” *Id.* § 41.212(b). The regulation further provides “[i]f the Secretary fails to act on a request for review within 30 days of receipt of the request, the request for review will be deemed denied.” *Id.* § 41.212(f).

In the instant matter, the Secretary failed to act on Merakey’s May 21, 2024 reconsideration request within 30 days, and therefore it was deemed denied on June 20, 2024. To timely appeal that deemed denial, Merakey was required to file a petition for review no later than July 22, 2024.¹ The Secretary ultimately entered an order denying reconsideration on the basis of untimeliness on August 5, 2024, but that did not create a new timeline for an appeal because, as just noted, that deadline expired after July 22, 2024.² Because the request for reconsideration was already denied by operation of law, i.e., “deemed denied,” the August 5, 2024 order was

¹ Thirty days from June 20, 2024, was Saturday, July 20, 2024. Accordingly, Monday, July 22, 2024, is treated as the final day to petition for review. *See* Pa.R.A.P. 1512(a)(1); 1 Pa.C.S. § 1908.

² The August 5, 2024 decision erroneously stated that Merakey could appeal that decision to this Court within 30 days. C.R. at 207. We have held that this misinformation can create an administrative breakdown that permits an untimely appeal. *Neyman v. Dep’t of Hum. Servs.* (Pa. Cmwlth., No. 1118 C.D. 2021, filed Mar. 17, 2023), slip op. at 6-7, 2023 WL 2543810. Merakey does not request such relief here, but we remind the Department of its duty to modify the language in its form documents when appropriate so it does not confuse litigants about their appeal rights.

null, void, and not one from which an appeal may lie. *Ciavarra v. Com.*, 970 A.2d 500, 503-04 (Pa. Cmwlth. 2009).

As a result, we dismiss Merakey's petition for review. *Id.* at 504 (order denying reconsideration after the 30-day period is void *ab initio* leaving "this [C]ourt [with] nothing to review").

MATTHEW S. WOLF, Judge

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	:	
Department of Human Services,	:	
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ORDER

AND NOW, this 26th day of September 2025, Merakey Philadelphia's Petition for Review of the Secretary of the Department of Human Services' August 5, 2024 Order is DISMISSED.

MATTHEW S. WOLF, Judge