

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Prior Health v Commissioner of Office of Financial & Insurance Services**
Docket No. **278412**
L.C. No. **06-007714-AA**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The claim of appeal is DISMISSED for lack of jurisdiction because the May 11, 2007 order, which stems from an appeal to the circuit court from a tribunal, is not an order that is appealable as a matter of right. MCR 7.203(A)(1)(a). Even though the Court appreciates the effort made by appellant to justify the claim of appeal, the Court still concludes that the Commissioner was acting as a tribunal in this situation. First, the cases cited by appellant do not support its argument. There was an appeal of right of a circuit court decision on appeal from a tribunal until February 1, 1994. The cases cited by appellant were either decided before February 1, 1994, or were at least filed before February 1, 1994, when the old rule still applied. Appellant does not cite any case that supports its position that was filed after February 1, 1994, in the Court of Appeals. Furthermore, the key in determining whether an administrative person is acting as a tribunal is whether that person is performing a role comparable to a court. Like the commissioner, a circuit courts issue declaratory ruling without any fact-finding occurring.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 15 2007

Date

Sandra Schultz Mengel

Chief Clerk