

STATE OF FLORIDA
DIVISION OF STATE GROUP INSURANCE

MOSHEN M. MILANI,

Petitioner,

Final Order No. 00-9
DSGI Case No. 99-4328

vs.

STATE OF FLORIDA, DIVISION
OF STATE GROUP INSURANCE,

Respondent.

FINAL ORDER

By letter dated July 15, 1999, the Division of State Group Insurance notified Petitioner that it was denying as untimely his request for reimbursement of certain medical expenses through the Florida Flexible Benefits Program. By letter received by the Division on August 8, 1999, Petitioner requested a hearing to contest the decision. The petition was forwarded to the Division of Administrative Hearings and assigned to Administrative Law Judge Robert Meale to conduct a formal hearing. The formal hearing was held on January 14, 2000, and a Recommended Order issued on March 8, 2000.

After a review of the entire record, the Division makes the following findings.

FINDINGS OF FACT

The Division adopts and incorporates by reference the findings of fact set forth by the Administrative Law Judge in his Recommended Order.

CONCLUSIONS OF LAW

The Division accepts the Exceptions filed by the Respondent and rejects the

Administrative Law Judge's conclusions of law for the following reasons.

1. Rule 60P-6.0081(3), Florida Administrative Code, provides that claims "must be postmarked or received if not

mailed, at the Department no later than April 15 following the prior Plan Year."

2. Findings of Fact #11 and #12 find that the Respondent never received the package mailed by the Petitioner containing the claims form and receipt and that the package was presumably lost.

3. As the Department never received the package, there is no postmark to examine to determine if the package was mailed before the deadline.

4. Rules must be interpreted according to the plain meaning of the words contained therein. Garcon Development, Inc. v. Dept. of Environmental Regulation, 468 So.2d 413 (Fla. 1st DCA 1985). Pursuant to the plain meaning of Rule 60P-6.0081(3), Florida Administrative Code, the Department must have in its possession a package that is either received or postmarked before the deadline of April 15. In this case the Department never received such a package.

CONCLUSION

Based upon the foregoing, the recommendation of the Administrative Law Judge is rejected. Accordingly, it is

ORDERED AND ADJUDGED that any claims for reimbursement from the Petitioner's Flexible Benefits Account for Plan Year 1998 are denied in accordance with the unambiguous provisions of Rule 60P-6.0081(3), Florida Administrative Code.

DONE AND ORDERED this 2 day of May, 2000.

Barbara L. Gonzales, Acting Director
Division of State Group Insurance
Department of Management Services
P.O. Box 5450
Tallahassee, Florida 32314-5450

NOTICE OF RIGHT TO APPEAL

This order constitutes final agency action. Judicial review of this proceeding may be instituted by filing a notice of appeal with the filing fee prescribed by law in the District Court of Appeal, pursuant to Section 120.68, Florida Statutes, and a copy with the clerk of the Department of Management Services. Such notice must be filed within 30 calendar days of

the date this order is filed in the official records of Department of Management Services, as indicated in the Certificate of Clerk. Review proceedings shall be conducted in accordance with the Florida Rules of Appellate Procedure.

Certificate of Clerk:

Filed in the office of the Clerk of the Department of Management Services on this 3rd day of May, 2000.

Michele Layton
Clerk

COPIES FURNISHED TO:

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