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St. Luke's v. Bd. Of Cty. Com'rs of Gooding Appellant's Brief Dckt. 36467

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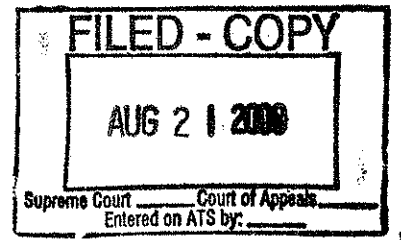
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IN THE SUPREME COURT OF THE STATE OF IDAHO

ST. LUKE'S MAGIC VALLEY)	
REGIONAL MEDICAL CENTER, LTD., an)	Supreme Court Docket No. 36467-2009
Idaho nonprofit corporation (regarding)	
Megan Freeman),)	
)	
Petitioner-Appellant,)	
)	
v.)	
)	
BOARD OF COUNTY COMMISSIONERS)	
OF GOODING COUNTY,)	
)	
Respondent.)	



APPELLANT BRIEF

Appeal from the District Court of the Fifth Judicial District
Of the State of Idaho, in and for the County of Gooding

The Honorable Barry Wood, District Judge Presiding

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I. STATEMENT OF THE CASE

On March 24, 2009, the District Court issued an Order on Petition for Judicial Review affirming in all respects the decision of the Board of County Commissioners of Gooding County (Board), which denied medical indigency benefits to Megan Freeman (Patient). (R. p. 41) St. Luke's Magic Valley Regional Medical Center (Hospital) filed a timely appeal from the District Court's decision. (R. p. 66).

A. Course of Proceedings

The Patient was seen in the Hospital's emergency room on March 1, 2007 and was subsequently hospitalized for two days after surgery to remove her gallbladder. (Agency R. Med. Records). The Hospital filed a medical indigency application with Gooding County (County), which was denied initially (Agency R. Uniform County App). The Hospital filed an appeal of the initial denial, and a hearing was held (Agency R. Notice of Appeal). The Patient, the Hospital's representative, and the County's representatives all appeared at the hearing, and evidence and testimony were presented by the parties to the Board. (Agency Hearing Tr., August 3, 2007) Following the hearing, the Board upheld the initial denial, denying benefits to the Patient. (Agency R. Final Determination).

The Hospital then submitted the matter to a pre-litigation screening panel for review per Idaho Code 31-3551. (Agency R. Pre-lit Request). After review, the screening panel found that the Patient was medically indigent and stated that it disagreed with the County's decision to deny benefits. (Agency R. Pre-lit Recommendation). After review by the screening panel, the County declined to follow the panel's recommendation, and the Hospital sought judicial review. (Agency R. Petition for Judicial Review dated _____).

On judicial review, the District Court found that the Board had failed to articulate sufficient findings of fact to permit review, and remanded the matter to the Board for additional findings. (Agency R. Decision and Order, dated June 25, 2008). On remand, the Board issued another determination with additional findings, this time without hearing. (Agency R. Final Determination, dated October 2, 2008) The determination again was to deny benefits. Following this decision, the Hospital again sought judicial review. (Agency R. p. 1) On review for the second time, the District Court affirmed the Board's decision finding that there was sufficient evidence to support the County's denial, and denied benefits to the Patient. (Agency R. p. 41)

B. Statement of Facts

The Patient is a stay-at-home mother of two children, ages 5 and 18 months, and is supported entirely by her husband, Robert Freeman, who is employed by Lithia Motors, earning \$8.00 an hour. (Agency Hearing Tr. p. 39; 45) At hearing, the Patient testified that she previously worked as a certified nurse's assistant (CNA), but lost her license following a complaint of neglect and abuse, a complaint which was ultimately found to be unsubstantiated. (Agency Hearing Tr. p. 44) The Patient has no prior work history and has not sought employment since July 2006, choosing to stay at home and raise her children. (Agency Hearing Tr. p. 45)

During the relevant time, Robert Freeman's take home net pay was between \$400 and \$500 every two weeks. (Agency Hearing Tr. p. 40). The County's initial estimate of Robert's income was \$1,800 a month. (Agency Hearing Tr. p. 7 and Agency R. Clerk's Statement of Findings) At hearing, however, testimony demonstrated that the County's calculation of Robert's income was too high, as it included benefits and overtime pay that Mr. Freeman was

not, in fact, receiving. (Agency Hearing Tr. p. 10; 12; 40; 41). Ultimately, the parties stipulated that Robert Freeman's *gross monthly income* was \$1,443, a figure used by Medicaid in July 2007 when the Patient applied for health insurance for her two children. (Agency Hearing Tr. p. 65 and Agency R. Letter from H&W, dated July 20, 2007).

Other than Robert's income, the Patient had no other resources. (Appeal Hearing Tr. p. 29; 42; 47). The Patient and her husband did own two automobiles; however, only one automobile was running at the time of hearing, and it was deemed an exempt asset under I.C. 31-3502(17) by the County. (Agency Hearing Tr. p. 29; 47). Testimony also revealed that the Patient received a tax refund in February 2007 in the amount of \$5,148. (Appeal Hearing Tr. p. 33) However, by the time the Patient was hospitalized, the proceeds from the tax refund had been spent on moving expenses and past due bills.¹ (Agency Hearing Tr. p. 50).

The Patient also had monthly expenses of \$1,978.68, which included payments for rent, food, utilities, non-food and other necessary items. (Agency Hearing Tr. p. 31). The Patient incurred medical costs of \$19,419.00 as a result of her hospitalization. (Agency Hearing Tr. p. 26). In order to pay for her medical costs within 60 months, the Patient needed monthly discretionary income in excess of \$330 after payment of these living expenses. Calculation of the Patient's income and expenses showed that she was unable to make the statutorily required payment.²

The Board held, however, that the Patient would have sufficient resources to make the required payment if she found employment in the evening after her husband returned from work.

¹ Prior to the Patient's hospitalization, the Patient and her husband were living with her parents in Wendell. They had only recently moved to Twin Falls when the Patient was hospitalized in March 2007, which is closer to Robert's place of employment.

² Under Idaho Code 31-3502(17), resources include the patient's present ability to pay for medical costs over a period of five (5) years. If the patient can pay for medical costs over a period of five (5) based on his or her available resources, then the patient is not medically indigent.

(Agency R. Final Determination, dated October 2, 2008). The Patient testified that she previously worked shifts opposite from her husband when she was a CNA. (Agency Hearing Tr. p. 52). By working opposite shifts, the Board reasoned that the Patient and Mr. Freeman could avoid the cost of putting their children in daycare and use the extra money to pay for her medical bills. (Agency R. Final Determination, dated October 2, 2008). The Board also reasoned that the Patient could use the proceeds from future tax refunds to pay for her medical costs over the next several years. (Agency R. Final Determination, dated October 2, 2008). Although the Patient testified that she did not know if she would receive a tax refund next year or the amount of any such refund, the Board found that the Patient's prospective, potential interest in proceeds from future tax refunds was an available resource. (Agency Hearing Tr. p 50; 57 and Agency R. Final Determination, dated October 2, 2008). Further, the Board noted that the Patient's expenses included a wage garnishment from Robert's paycheck that would be paid off within 5 months. Once the garnishment was satisfied, the Board reasoned that this would reduce the Patient's monthly expenses by \$436 and help pay for her medical costs. (Agency R. Final Determination, dated October 2, 2008).

Based on these circumstances, the Board denied the Patient's application for medical benefits, and the District Court affirmed that decision on appeal.

II. ISSUES ON APPEAL

Whether the Board erred in finding that the Patient was not medically indigent under Idaho Code 31-3502(1)?

Whether the Hospital should be awarded costs and attorney fees under Idaho Code 12-117?

III. STANDARD OF REVIEW

The denial of an application for indigency benefits is reviewed under the Administrative Procedures Act. *Jefferson County v. E. Idaho Reg'l Med. Ctr. (Application of Ackerman)*, 127 Idaho 495, 903 P.2d 84 (1995); Idaho Code 31-3505G. “[J]udicial review of disputed issues of fact must be confined to the agency record for judicial review as defined in this chapter.” Idaho Code 67-5277. A reviewing court may not substitute its judgment for that of the administrative agency on questions of fact. *Jefferson, supra*; Idaho Code 67-5279(1),

The Court will affirm the County’s decision unless it finds that the decision is

- (a) in violation of constitutional standards or statutory provisions;
- (b) in excess of statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) not supported by substantial evidence on the record as a whole; or
- (e) arbitrary, capricious, or an abuse of discretion.

Idaho Code 67-5279(3). Notwithstanding, agency action shall be affirmed unless substantial rights of the appellant have been prejudiced. Idaho Code 67-5279(4).

Review of the Board’s decision is analogous to an agency’s decision, which the Court reviews independently as if the case were directly appealed from the agency, while given serious consideration to the District Court’s decision. *E. Idaho Reg'l Med. Ctr. v. Ada County Bd. of County Comm'rs (In the Matter of Hamlet)*, 139 Idaho 882, 884, 88 P.3d. 701, 703 (2003).

IV. ARGUMENT

WHETHER THE BOARD ERRED IN FINDING THAT THE PATIENT WAS NOT MEDICALLY INDIGENT?

A. The Record Demonstrates that the Patient Was Unable to Pay for Her Medical Costs

The Board erred in finding that the Patient had sufficient available resources to pay for her medical costs and was therefore not medically indigent. The evidence and testimony in the record demonstrated that the Patient did not have sufficient income or resources to pay for her medical costs over five (5) years and was eligible for benefits under the statute. The Patient's only source of income was her husband's income from Lithia Motors. At hearing, the parties stipulated that Robert Freeman's monthly gross income was \$1,433.00. Other than Robert's income from his employment at Lithia, the Patient had no other resources, aside from an automobile that the County deemed exempt under Idaho Code 31-3502(17). The Patient's monthly expenses exceeded \$1,900 a month. In order to pay her medical costs within 60 months, the Patient needed monthly discretionary income in excess of \$330 after payment of necessary living expenses. Calculation of the Patient's income and expenses showed that she did not have sufficient resources to pay for her medical costs within a 60 month time frame.

In order to qualify for benefits, the Patient was only required to meet the definition of a medically indigent person as that term is defined under Idaho Code 31-3502(1). Idaho Code 31-3502(1) defines medical indigence as follows:

Medically indigent means any person who is in need of necessary medical services and who, if an adult, together with his or her spouse...does not have income or resources available to him...sufficient to pay for necessary medical services.

The record plainly demonstrated that the Patient did not have sufficient, available resources to pay for her medical costs and was medically indigent. The Board's decision to deny the

Patient's application was therefore arbitrarily made and not supported by substantial and competent evidence.

B. The District Court's Reliance on Carpenter and Ackerman Was Misplaced

In affirming the Board's decision, the District Court found that the Patient was not medically indigent because she was voluntarily unemployed. The District Court held that the Patient's decision not to seek employment was a lifestyle choice for which the taxpayer should not be held responsible in paying for the Patient's medical costs. In so holding, the District Court cited to this Court's opinions in *Carpenter v. Twin Falls*, 107 Idaho 575 (1984) and *Application of Ackerman*, 127 Idaho 495 (1995). The Court's reliance on these cases was misplaced and did not support or compel the Board's finding.

In *Carpenter*, the record demonstrated that Mr. Carpenter did not have income and resources available to pay for his wife's medical expenses. The application showed that Mr. Carpenter had less than \$100 a month after payment of necessary living expenses. The Carpenters' total medical costs exceeded \$10,000. After the application was filed, Mr. Carpenter quit his employment. The Hospital argued that Mr. Carpenter was medically indigent based on the fact that he had virtually no income at the time of hearing. The Court held that the Commissioners were not bound by that single fact, and were free to consider all of the facts, including that Mr. Carpenter was a healthy individual who had voluntarily quit his job in considering the application for medical benefits. *Carpenter* at 585.

The District Court relied on this statement from *Carpenter* to hold that the Patient's ability to work was a resource upon which she could draw to pay for her medical costs. *Carpenter* is distinguishable from the instant proceeding in two important respects, however. First, unlike Mr. Carpenter, the Patient did not quit her employment while the application was

pending and thereby forego income that was available to pay for her medical expenses; and second, the Patient was already working on a full-time basis as a stay-at-home mother when the request for county payment was made.

The District Court reasoned that *Carpenter* required the Patient to seek employment in order to pay for her medical costs; however, nothing in *Carpenter* actually compels or supports that conclusion.

The District Court also relied on *Ackerman* to hold that the Patient's decision not to seek employment was a lifestyle choice. The court's reliance on *Ackerman* was also misplaced. In *Ackerman*, Mr. Ackerman had income in excess of \$3,000 per month with his housing and utilities provided by his employer. Ackerman argued that he could not pay his medical bills, however, because he had \$2,078 in monthly expenditures for a TV satellite subscription, cellular phone service, car and motorcycle payments, credit card debt and other loans. The Court held that Ackerman actually had sufficient resources to pay for his medical expenses despite the fact that he may have wanted to his use resources for other debts or discretionary items. *Ackerman* at 497.

In so holding, the Court stated that "the policy behind providing medically indigency benefits is to assist people who are truly needy with medical expenses, not necessarily to assist people *who have the financial ability to pay* were it not for their voluntary abuse of credit cards or the lifestyle choices they make." *Ackerman* at 498. The District Court relied on this statement from *Ackerman* to hold that the Patient's decision not to seek employment was a lifestyle choice. The District Court's reliance on this statement was entirely inapposite, however. Unlike Ackerman, the Patient is unable to pay for her medical bills because she has no money and no other resources, not because she and her husband choose to spend their money on

discretionary items. Without an initial showing that the Patient has sufficient resources to pay for her medical expenses, the question of “lifestyle choices” is irrelevant. *Bonner General Hospital v. Bonner County*, 133 Idaho 7 (1999).

In addition, the District Court’s characterization of the Patient’s decision to stay at home with her children as a lifestyle choice is an unwarranted extension of the holding in *Ackerman*. Lifestyle choices, as discussed in *Ackerman*, merely concerned expenditures by the patient on discretionary items.

C. The Patient’s Tax Refund is Not An Available Resource

The Board’s finding that the Patient had an available resource in the form of a tax refund was also not supported by substantial and competent evidence. At hearing, the Patient testified that her tax refund from February 2007 was spent on moving expenses and past due bills prior to her hospitalization. The Patient also testified that she did not know if she would receive a tax refund next year or the amount of any such refund. Notwithstanding, the Board found that the Patient’s tax refund was an available resource. The Board’s finding in this regard was plainly not supported by the evidence and was arbitrary and capricious. To the extent the Board considered the Patient’s interest in the receipt of future tax refunds an available resource, that holding was in error. This Court has previously held that a patient’s interest in payments for benefits that the patient expects to receive in the future is not an available resource. *University of Utah Hosp. and Med Ctr. v. Twin Falls County*, 122 Idaho 1010 (1992).

WHETHER THE HOSPITAL IS ENTITLED TO COSTS AND ATTORNEY FEES?

D. The Hospital Should be Awarded Costs

The Hospital maintains that the County acted without a reasonable basis in law or fact in denying the Patient's application. Request is hereby made for an award of costs and attorney fees pursuant to Idaho Code 12-117.

V. CONCLUSION

Based on the foregoing points and authorities, the Hospital hereby requests that the Board's decision be REVERSED.

DATED this 19th day of August 2009.

LAW OFFICE OF STEVEN PITTS, P.A.



STEVEN B. PITTS
Attorney for Petitioner-Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of August 2009, I served a true and correct copy of the above Appellant Brief by U.S. Mail, postage pre-paid, on the following person(s):

Luverne Shull
Deputy Gooding County Prosecutor
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