

FILED
COMMON PLEAS COURT

2017 DEC 22 AM 11:38

DENISE H. KAMINSKI
CLERK OF COURTS
GEAUGA COUNTY

**IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO**

EVELYN PECK	:	CASE NO. 17A000359
Plaintiff	:	JUDGE FORREST W. BURT
-vs-	:	<u>JUDGMENT</u>
OHIO DEPARTMENT OF JOB & FAMILY SERVICES	:	
Defendant	:	

— ALP —

This matter came on for consideration upon the Notice of Appeal filed by Legacy Health Services d/b/a Mapleview Country Villa (hereinafter "Mapleview") on behalf of Evelyn Peck, as her Designated Authorized Representative and upon the Motion for Substitution of Party-Deceased Plaintiff filed by Legacy Health Services as authorized representative of Evelyn Peck, deceased. Also before the Court is the Motion to Dismiss filed by the Ohio Department of Jobs and Family Services (ODJFS).

Mapleview has appealed the Administrative Appeal Decision of the ODJFS Bureau of State Hearings wherein the Bureau affirmed the state hearing decision which overruled an appeal regarding the denial of an undue hardship exemption from a Restricted Medicaid coverage period (RMCP).

Statement of Facts

On November 30, 2016, the Geauga County Department of Job and Family Services approved Evelyn Peck's application for Medicaid benefits but imposed a penalty period of restricted Medicaid from September 1, 2016, through February 5, 2017, on the basis that Mrs. Peck's son had improperly transferred funds of Mrs. Peck. On December 21, 2016, Mapleview, as Designated Authorized Representative of Evelyn Peck submitted a request for an undue hardship exemption, which request was denied.

On behalf of Evelyn Peck, Maplevue filed an appeal and request for fair hearing with ODJFS regarding the denial of the request for an undue hardship exemption. On April 7, 2017, the ODJFS Bureau of State Hearings affirmed the denial of Mrs. Peck's request for an undue hardship exemption.

Evelyn Peck died on June 5, 2017.

Legal Analysis

ODJFS asks this Court to dismiss the within appeal on the grounds that Maplevue lacked standing to file an appeal with this Court on behalf of Evelyn Peck. Maplevue contends that it has standing to file an appeal on behalf of Mrs. Peck pursuant to OAC 5160:1-33. Additionally, Maplevue asks that the Special Administrator of Evelyn Peck's Estate, Jennifer Coy, be substituted for Evelyn Peck as Plaintiff in the instant action.

The Court agrees with ODJFS that Maplevue lacked standing to file an appeal with this Court on behalf of Evelyn Peck. Although OAC 5160-33, et seq., permits the designation of an Authorized Representative for purposes of applying for Medicaid benefits and for administrative appeals relative to those Medicaid benefits, the Administrative Code does not and cannot authorize Maplevue to file an appeal with the Court of Common Pleas on behalf of Evelyn Peck.

A review of the Authorized Representative Designation purportedly authorizing Maplevue to prosecute the within appeal discloses that Mrs. Peck's son, Mark Ross, authorized one Sharon Robinette, an employee of Maplevue, to act as Mrs. Peck's Authorized Representative. Nothing within the Authorized Representative Designation is there any provision which could reasonably be interpreted as the grant of authority to Maplevue to prosecute an appeal to the Court of Common Pleas on behalf of Evelyn Peck.

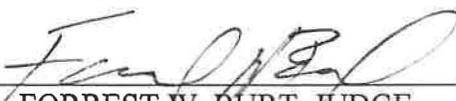
The attempt to substitute Jennifer Coy for Evelyn Peck is to no avail. As stated above, Maplevue lacked standing to file a Notice of Appeal on behalf of Evelyn Peck. The Probate Court's appointment of Jennifer Coy as Special Administrator of Evelyn Peck's Estate does not relate back to and correct the faulty filing of the Notice of Appeal.

Judgment

The Motion to Dismiss filed by ODJFS is sustained.

The Notice of Appeal filed by Legacy Health Services d/b/a Mapleview Country Villa (hereinafter "Mapleview") on behalf of Evelyn Peck is dismissed.

Legacy Health Services shall pay the costs of these proceedings for which judgment is entered and execution may issue.


FORREST W. BURT, JUDGE

cc: Jennifer A. Coy, Esq. ✓
James A. Stevens, Esq. ✓

TO THE CLERK:
Serve upon all parties, not in default for failure to appear (per Civil Rule 5-(B), notice of this Judgment and its date of journalization.