SUPREME COURT OF OREGON

Larisa's Home Care, LLC v. Nichols-Shields

362 Or 115 (2017) · No. SC S064120; CA A154950; CC C124865CV · Decided October 26, 2017

SUMMARY

The Oregon Supreme Court held that unjust enrichment is generally available when a party obtains discounted services through fraud, and that a defendant may be liable for the reasonable value of those services. The court concluded that the decedent’s estate was legally responsible for false Medicaid-eligibility representations made by the decedent’s agent and was unjustly enriched by the resulting lower rates. It reversed the Court of Appeals and remanded for consideration of whether Medicaid law nevertheless barred recovery.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Nakamoto, J.; Balmer, C.J.; Kistler, J.; Walters, J.; Landau, J.; Flynn, J.; Duncan, J.
JURISDICTION	Oregon
DECIDED	October 26, 2017
DOCKET	SC S064120; CA A154950; CC C124865CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Larisa's Home Care sought review of a Court of Appeals decision reversing a trial-court judgment awarding restitution for unjust enrichment. The Oregon Supreme Court reversed the Court of Appeals and remanded for consideration of an unresolved Medicaid-specific defense.
STANDARD OF REVIEW	The Supreme Court reviewed the Court of Appeals' legal determination regarding unjust enrichment. The Court of Appeals had declined to determine the facts de novo under ORS 19.415(3) and viewed the trial-court facts and inferences in the light most favorable to the prevailing party.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Larisa's Home Care, LLC v. Karen Nichols-Shields, personal representative of the Estate of Isabell Prichard

TOPICS

restitution · medicare medicaid · equitable relief · estate administration · appellate procedure

PRACTICE AREAS

restitution · unjust enrichment · Medicaid · health law · agency law · probate and estate administration

QUESTIONS PRESENTED

1. Whether an adult foster-care provider may recover the reasonable value of discounted services through unjust enrichment when the recipient obtained the discounted rate by fraud.
2. Whether the Court of Appeals' Jaqua formulation and three-factor test adequately state the elements of unjust enrichment.
3. Whether undisclosed asset transfers would have disqualified Prichard from Medicaid when she applied for benefits.
4. Whether Prichard was legally responsible to third parties for false representations made by Gardner under her power of attorney despite her incapacity.
5. Whether Medicaid statutes, administrative rules, or the provider's contract with the Department of Human Services barred the provider's restitution claim.

HOLDINGS

1. The Jaqua formula and its three factors are inadequate as an all-purpose statement of unjust-enrichment law. Oregon courts should examine established legal categories of unjust enrichment reflected in Oregon case law and other authorities rather than apply the Jaqua checklist categorically.
2. A person who obtains discounted services through fraud is generally unjustly enriched to the extent of the reasonable value of the services, and the person or the person's estate may be subject to restitution.
3. The undisclosed asset transfers would have disqualified Prichard from Medicaid when she applied, because the exception for a fraud victim whose assets had been recovered did not apply at that time. The false representations therefore enabled her to receive care at Medicaid rather than private-pay rates.
4. Prichard was legally responsible to third parties for Gardner's false representations because Gardner acted as her agent under a power of attorney that remained effective despite her later disability or incompetence.
5. ORS 410.070 does not bar an equitable action by a Medicaid service provider seeking recovery from a recipient or estate that obtained benefits through fraud.

KEY QUOTATIONS

> *"We conclude that, generally, a defendant who obtains discounted services as a result of fraud is unjustly enriched to the extent of the reasonable value of the services."* (117)

> *"In lieu of applying the formula in Jaqua, Oregon courts should examine the established legal categories of unjust enrichment as reflected in Oregon case law and other authorities to determine whether any particular*

> *enrichment is unjust.”* (132)

> *“In short, both the Restatement (3d) Restitution and our case law are in accord that a person—and his or her estate—have been unjustly enriched if the person obtains benefits by making false representations about his or her financial state.”* (135)

> *“The facts in this case thus support a determination of unjust enrichment.”* (139)

FACTUAL BACKGROUND

Isabell Prichard received adult foster-care services from Larisa's Home Care at Medicaid rates rather than the substantially higher private-pay rates. Prichard's son, Richard Gardner, acting under a power of attorney, falsely represented on her Medicaid application that she had not transferred assets during the preceding 60 months, although he had transferred more than $150,000 of her assets. Those transfers would have disqualified Prichard from Medicaid during her stay if they had been disclosed when she applied, and the discounted rates left Prichard's estate approximately $48,000 larger than it otherwise would have been. Gardner's assets transfers were later recovered and paid to the estate, and he pleaded guilty to criminal mistreatment.

PROCEDURAL HISTORY

Larisa's Home Care provided adult foster-care services to Isabell Prichard at Medicaid rates after Prichard was approved for benefits based on an application falsely denying recent asset transfers. After Prichard's death, the provider presented a claim to the estate for the difference between Medicaid and private-pay rates; the personal representative denied the claim. Following a bench trial, the circuit court awarded the provider $48,477 on an unjust-enrichment theory. The Court of Appeals reversed, holding that unjust enrichment was not established, and the Oregon Supreme Court granted review, reversed the Court of Appeals, and remanded for it to decide whether Medicaid law or the provider's contract nevertheless barred recovery.

DISPOSITION

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REMAND INSTRUCTIONS

The Court of Appeals must consider in the first instance whether Medicaid-specific statutes, administrative rules, federal law, or the provider's contract with the Department of Human Services prohibit Larisa's Home Care from recovering the private-pay-rate difference. The Supreme Court declined to decide that unresolved issue because it had not been adequately briefed.

CASES CITED

- James v. Clackamas County, 353 Or 431, 433-34, 299 P3d 526 (2013)
- Harris v. McRae, 448 US 297, 308, 100 S Ct 2671, 65 L Ed 2d 784 (1980)
- Larisa's Home Care, LLC v. Nichols-Shields, 277 Or App 811, 372 P3d 595 (2016)
- Cron v. Zimmer, 255 Or App 114, 130, 296 P3d 567 (2013)
- Jaqua v. Nike, Inc., 125 Or App 294, 298, 865 P2d 442 (1993)

- Tupper v. Roan, 349 Or 211, 220, 243 P3d 50 (2010)
- S itiner v. Thompson et ux., 225 Or 614, 625, 358 P2d 267 (1961)
- Teachers' Ret. Fund Ass'n v. Pirie, 150 Or 435, 445, 46 P2d 105 (1935)
- Derenco v. Benj. Franklin Fed. Sav. and Loan, 281 Or 533, 557, 577 P2d 477, cert den, 439 US 1051 (1978)
- Owen v. Bradley, 231 Or 94, 103, 371 P2d 966 (1962)
- Cumming v. Nipping, 285 Or App 233, 238-39, 395 P3d 298 (2017)
- McKay v. Horseshoe Lake Hop Harv., 260 Or 612, 613-14, 491 P2d 1180 (1971)
- Stirewalt v. Chilcott, 236 Or 128, 134, 387 P2d 351 (1963)
- In re Anderson's Estate, 157 Or 365, 71 P2d 1013 (1937)
- Old Men's Home, Inc. v. Lee's Estate, 191 Miss 669, 4 So 2d 235 (1941)
- Jones v. Stearns, 97 Vt 37, 122 A 116 (1923)
- Eggers v. Anderson, 63 NJ Eq 264, 272-73, 49 A 578, 582 (NJ 1901)
- White v. Gordon et ux., 130 Or 139, 143, 279 P 289 (1929)
- Barnes v. Eastern & Western Lbr. Co., 205 Or 553, 588, 287 P2d 929 (1955)
- Tupper v. Roan, 349 Or 211, 224, 243 P3d 50 (2010)
