

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Kings Harbor Multicare Ctr. v. Pierre

2022 NY Slip Op 06920 (N.Y. Ct. App. 2022) · No. 2020-00409 · Decided December 7, 2022

SUMMARY

The Appellate Division, Second Department, reversed the dismissal of a nursing home's plenary action seeking a declaration concerning a resident's Medicaid eligibility and transfer penalty. The court held that the nursing home was not required to exhaust administrative remedies or comply with the four-month statute of limitations applicable to administrative proceedings, and that the New York State Department of Health was not a necessary party.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Per Curiam; Valerie Brathwaite Nelson, J.P.; Lara J. Genovesi, J.; Deborah A. Dowling, J.; Helen Voutsinas, J.
JURISDICTION	New York
DECIDED	December 7, 2022
DOCKET	2020-00409
DISPOSITION	reversed
PROCEDURAL POSTURE	The nursing-home operator appealed from an order granting the defendant's CPLR 3211(a) motion to dismiss its declaratory-judgment action.
STANDARD OF REVIEW	On a CPLR 3211(a) motion to dismiss, the court reviews the legal sufficiency of the complaint and accepts its factual allegations as true for purposes of the motion; the appellate court reviewed the dismissal on the law.
PRECEDENTIAL VALUE	Published New York Appellate Division decision; precedential within the applicable New York court system.
PARTIES	Kings Harbor Multicare Center v. Frances Pierre

TOPICS

motions to dismiss

medicare medicaid

exhaustion of remedies

statute of limitations

joinder

PRACTICE AREAS

Medicaid

administrative law

civil procedure

appellate procedure

nursing-home law

QUESTIONS PRESENTED

1. Whether a nursing-home operator may bring a plenary action in its own right against the agency responsible for determining Medicaid eligibility.
2. Whether the nursing-home operator is barred from bringing that plenary action because the resident failed to request an administrative appeal or because the four-month statute of limitations in CPLR 217 expired.
3. Whether the resident's authorizations allowing Kings Harbor employees to represent him during the Medicaid process and fair hearings impaired Kings Harbor's right to commence its own plenary action.
4. Whether the New York State Department of Health was a necessary party under CPLR 1001(a).

HOLDINGS

1. A nursing home may bring a plenary action in its own right against the agency designated to determine Medicaid eligibility.
2. In its own plenary action, the nursing home is not bound by the patient's failure to request an administrative appeal of the local agency's denial of medical assistance.
3. The four-month statute of limitations in CPLR 217 does not bind a nursing home bringing its own plenary action concerning Medicaid eligibility.
4. Authorizations permitting designated nursing-home employees to represent the resident during the Medicaid eligibility process and fair hearings did not impair the nursing home's right to commence its own plenary action.
5. The New York State Department of Health was not a necessary party under CPLR 1001(a).

KEY QUOTATIONS

“It is well established that a nursing home may, as here, bring a plenary action in its own right against the agency designated to determine Medicaid eligibility” ([*1])

“not bound by the patient's failure to request an administrative appeal of the local agency's denial of medical assistance” ([*1])

“or by the four-month Statute of Limitations contained in CPLR 217” ([*1])

FACTUAL BACKGROUND

Kings Harbor, the operator of a nursing-home facility, sought a declaration that one of its residents was eligible for chronic-care nursing-home Medicaid coverage from February 7, 2013, through August 31, 2014, with an

appropriate transfer penalty. The resident had executed authorizations permitting designated Kings Harbor employees to represent him during the Medicaid eligibility process and at fair hearings.

PROCEDURAL HISTORY

Kings Harbor commenced an action seeking a declaration that a nursing-home resident was eligible for chronic-care nursing-home Medicaid coverage for a specified period, subject to an appropriate transfer penalty. The Supreme Court, Suffolk County, granted the defendant's motion to dismiss based on asserted failure to exhaust administrative remedies, expiration of the statute of limitations, and failure to join a necessary party. The Appellate Division reversed and denied the motion.

DISPOSITION

reversed

CASES CITED

- Peninsula Gen. Nursing Home v. Hammons, 247 A.D.2d 599, 599
- VDRNC, LLC v. Merrick, 191 A.D.3d 1430, 1431
- Long Beach Mem. Nursing Home v. D'Elia, 108 A.D.2d 901, 902

OPINION

PER CURIAM.

Kings Harbor Multicare Ctr. v Pierre (2022 NY Slip Op 06920) Kings Harbor Multicare Ctr. v Pierre 2022 NY Slip Op 06920 Decided on December 7, 2022 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on December 7, 2022 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department VALERIE BRATHWAITE NELSON, J.P. LARA J. GENOVESI DEBORAH A. DOWLING HELEN VOUTSINAS, JJ. 2020-00409 (Index No. 608278/19) [*1]Kings Harbor Multicare Center, appellant, vFrances Pierre, etc., respondent. Schwartz Sladkus Reich Greenberg Atlas LLP, New York, NY (Jeremy A. Knapp of counsel), for appellant.

Dennis M. Cohen, County Attorney, Hauppauge, NY (Leland S. Solon and Michael J. Petre of counsel), for respondent. DECISION & ORDER In an action for a judgment declaring that a resident of the plaintiff's nursing home was eligible for chronic care nursing home Medicaid coverage for the period February 7, 2013, through August 31, 2014, with an appropriate transfer penalty, the plaintiff appeals from an order of the Supreme Court, Suffolk County (John H. Rouse, J.), dated November 26, 2019.

The order granted the defendant's motion pursuant to CPLR 3211(a) to dismiss the complaint. ORDERED that the order is reversed, on the law, with costs, and the defendant's motion pursuant to CPLR 3211(a) to dismiss the complaint is denied.

The plaintiff, an operator of a nursing home facility, commenced this action seeking a judgment declaring that one of its residents was entitled to Medicaid coverage for the period February 7, 2013, through August 31, 2014, with an appropriate transfer penalty.

The defendant moved to dismiss the complaint on the grounds, inter alia, that the plaintiff failed to exhaust its administrative remedies, the statute of limitations had expired, and the plaintiff failed to join a necessary party.

In an order dated November 26, 2019, the Supreme Court granted the motion. The plaintiff appeals. The Supreme Court erred in granting the defendant's motion pursuant to CPLR 3211(a) to dismiss the complaint. "It is well established that a nursing home may, as here, bring a plenary action in its own right against the agency designated to determine Medicaid eligibility" (Peninsula Gen.

Nursing Home v Hammons, 247 AD2d 599, 599; see VDRNC, LLC v Merrick, 191 AD3d 1430, 1431). In such a plenary action, the nursing home is "not bound by the patient's failure to request an administrative appeal of the local agency's denial of medical assistance" or "by the four-month Statute of Limitations contained in CPLR 217" (Long Beach Mem. Nursing Home v D'Elia, 108 AD2d 901, 902).

Moreover, authorizations executed by the resident allowing designated employees of the plaintiff to represent him "during the Medicaid eligibility process" and during "any Fair Hearings" did not impair the plaintiff's right to commence its own plenary action (see VDRNC, LLC v Merrick, 191 AD3d at 1431; Long Beach Mem. Nursing Home v D'Elia, 108 AD2d at 902).

Contrary to the defendant's contention, the New York State Department of Health is not a necessary party (see CPLR 1001[a]). BRATHWAITE NELSON, J.P., GENOVESI, DOWLING and VOUTSINAS, JJ., concur. ENTER: Maria T. Fasulo Clerk of the Court