

STATE OF MINNESOTA
COUNTY OF HENNEPIN

FILED
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DISTRICT COURT
FOURTH JUDICIAL DISTRICT

In Re the Estate of:
Richard L. Perrin,

BY: [Signature]
FOURTH DISTRICT COURT

Decedent.

ORDER

Court File Number: 27-PAPR-06-1482
Judge Jay M. Quam

This matter came on for a motion hearing before the Honorable Jay M. Quam, Judge of District Court, on March 29, 2010.

APPEARANCES

David E. Culbert, Esq. appeared as Personal Representative for the Estate of Richard L. Perin. Lon Erickson, Assistant Hennepin County Attorneys, appeared on behalf of Claimant Hennepin County Human Services Department. Cynthia Jahnke, Assistant Attorney General, appeared on behalf of Intervener Office of the Attorney General.

Based upon all files, records and proceedings herein, the Court makes the following:

ORDER:

1. The Court's Order, filed in this matter on February 3, 2010, is upheld.
2. The attached Memorandum of Law is incorporated herein.

BY THE COURT:

[Handwritten Signature of Jay M. Quam]

Jay M. Quam
Judge of District Court
Mental Health Division
Dated: May __, 2010

JUNE 3

MEMORANDUM OF LAW

This matter is before the Court on Hennepin County Human Services Department's Motion for Review of Order. Because the relitigation of Hennepin County Human Services Department's claim against the Estate of Richard L. Perrin for repayment of Medical Assistance, rightly paid out on behalf of Mr. Perrin's pre-deceased spouse, is barred by collateral estoppel, and its claim was properly disallowed and denied, the Court upholds its February 3, 2010, Order.

I. *Background Information.*

On September 19, 2006, Petitioner David E. Culbert, Esq. filed a Petition for Formal Probate of Will and for Formal Appointment of Personal Representative which requested, in relevant part, that he be appointed personal representative of the Estate of Richard L. Perrin in a supervised administration. This appointment was uncontested and Mr. Culbert accepted the appointment as personal representative on September 26, 2006.

Following the appropriate publication of Notice to Creditors by Mr. Culbert, Hennepin County Human Services Department ("Claimant") filed a Written Statement of Claim in this matter on or about September 28, 2006, making a \$276,408 claim on the estate of Decedent Richard L. Perrin ("Decedent"). This amount represents the total Medical Assistance paid on behalf of Decedent's pre-deceased spouse¹. In an Amended Notice of Disallowance or Partial Allowance of Claim, filed September 4, 2009, Mr. Culbert denied Claimant's claim in its entirety. Claimant disputed the appropriateness of this disallowance, asserting that its claim was proper and should be honored.

On February 3, 2010, the Court, in an opinion authored by District Court Referee Bruce Kruger and co-signed by Judge Jay Quam, filed an Order Disallowing and Denying Claim. This Order disallowed and denied Claimant's claim in its entirety. Specifically, this Order found that there were no factual disputes between the parties and that they agreed, in light of the Minnesota Supreme Court's ruling in *In Re the Estate of Barg*, 752 N.W.2d 52 (Minn. 2008), cert. den. 129 S.Ct. 2859, WL 1835179 (June 29, 2009), the Claimant could not recover under § Minn. Stat. § 256B.15, subd. 2. February 3, 2010, Order, ¶¶ 2-3, p. 2. The Court further addressed Claimant's contention that its claim should be allowed pursuant to Minn. Stat. § 519.05(a), stating that this

¹ Decedent did not receive Medical Assistance on his own behalf at any time.

claim was briefed and argued to – and resolved by – the Minnesota Supreme Court in *Barg*, and that further litigation of such claim is barred by *res judicata*. *Id.* at pp. 3-4.

On February 16, 2010, Claimant filed a Motion for Review of Order pursuant to Minn. Stat. § 484.70, subd. 7(d), contending that the Court's February 3, 2010, Order was contrary to law.² The Court heard this motion on March 29, 2010. In essence, Claimant requests the Court review the February 3, 2010, Order and expound on why Minn. Stat. § 519.05(a) does – or does not – validate its claim on Decedent's estate. Claimant's state that the Court's *res judicata* and privity analyses and conclusions, as contained in the February 3, 2010, Order, are contrary to law, that their claims are not barred by the doctrines of *res judicata* and/or collateral estoppel, and that the Court should have addressed its § 519.05(a) argument on its merits.

II. *The doctrine of res judicata does not apply.*

To apply the doctrine of *res judicata* – and thus bar Claimant's from bringing any subsequent claim – all the following elements must be met: "(1) the earlier claim involved the same set of factual circumstances; (2) the earlier claim involved the same parties or their privies; (3) there was final judgment on the merits; (4) the estopped party had a full and fair opportunity to litigate the matter." *Hauschidt v. Beckingham*, 686 N.W.2d 829, 840 (Minn. 2004). Parties in privity with one another must be so closely aligned and related that a judgment affecting one party affects the other.

The Court's February 3, 2010, Order found that there was privity between Claimants and the Mille Lacs Family Services and Welfare Department, the claimants in *Barg*. *In Re the Estate of Barg*, 752 N.W.2d at 56. The Court's order is silent on the relationship or privity between the Perrin and the Barg estates.

Privity requires that "a person to be so identified in interest with another that he represents the same legal right." *State v. Joseph*, 636 N.W.2d 322, 327 n.2 (Minn. 2001); *see also Margo-Kraft Distributors, Inc. v. Minneapolis Gas Co.*, 200 N.W.2d 45, 48 (Minn. 1972) (citing Rest. Judg. § 83, which states that privity exist between parties when a party has control over a proceeding although they are not parties to the action itself, whose interests are represented by a party to the action, and/or they are successors in interest to those having derivative claims.).

² On February 16, 2010, Mr. Cuthbert filed a Motion requesting an award of attorneys' fees and sanctions against Claimant. This request shall be addressed via separate order of the Court.

Based on the record before the Court, the Court finds that there is no privity between the Perrin and Barg estates. Although similarly situated – in that both estates involved a claim for repayment of Medical Assistance³ paid on behalf of a pre-deceased spouse – the estates are unrelated: neither estate is directly benefitted or harmed by the actions affecting the other. Accordingly, *res judicata* does not apply in this matter.

III. The doctrine of collateral estoppels does apply.

Collateral estoppel, or issue preclusion, applies when the following elements are met: “(1) the issue was identical to one in a prior adjudication; (2) there was a final judgment on the merits; (3) the estopped party was a party or in privity with a party to the prior adjudication; and (4) the estopped party was given a full and fair opportunity to be heard on the adjudicated issue.” *Williams v. Comm’r of Pub. Safety*, 333 N.W.2d 619, 621 (Minn. 1983) (quoting *Victory Highway Village, Inc. v. Weaver*, 480 F.Supp. 71, 74 (D. Minn. 1979)). Here, all the elements are met and therefore Claimants should be barred from re-litigating their Medical Assistance claim based on Minn. Stat. § 519.05(a). Specifically, the elements of collateral estoppel are met in this case as follows:

1. The issue of whether the estate of an married individual, who did not personally receive Medical Assistance, should be responsible for repaying Medical Assistance paid out to a pre-deceased spouse is identical in both *Barg* and the present case. Both pre-deceased spouses transferred their interest in the martial homestead to the surviving spouse prior to their application for and receipt of Medical Assistance. Both claimants made a claim for repayment of the Medical Assistance on the estate of the surviving (non-recipient) spouse based on Minn. Stat. § 256B.15, subd. 2 and/or Minn. Stat. § 519.05(a). Indeed, the claims were so identical and so close together in time that the parties to the present matter agreed to continue the litigation in this case pending the Minnesota Supreme Court’s ruling on *Barg*.
2. As noted in the Court’s February 3, 2010, Order, there was final judgment on the merits: the issue of a claim pursuant to Minn. Stat. § 519.05(a) was briefed and

³ The claim in *Barg* was for the repayment of Medicaid monies paid on behalf of the pre-deceased spouse. In Minnesota, the Medicaid program is more commonly referred to as Medical Assistance. For the sake of clarity, Medicaid and Minnesota Care shall be used interchangeably in this Order.

argued before the Minnesota Supreme Court, and it could have been argued at the trial court. This claim was appealed to the United States Supreme Court, which declined review of the Minnesota Supreme Court's ruling. Although the Minnesota Supreme Court was silent as to its basis for denying the Barg claimant's based on Minn. Stat. § 519.05(a), it did make a final judgment on the merits of the case, as contained in its 25 page opinion, issued May 30, 2008, in *Barg*.

3. The claimants in the Barg and Perrin estates are in privity with one another. As the Court correctly reasoned in its February 3, 2010, Order:

Privity signifies that the relationship between two or more persons is such that a judgment involving one of them may justly be conclusive upon the other, although the other was not a party to the lawsuit. The Federal Medicaid Program (Medical Assistance in Minnesota) requires the states to develop a plan that, among other things, designates [a] single state agency to administer or supervise the administration of the plan. 42 U.S.C. § 1396a. Minnesota has designated the Minnesota Commissioner of Human Services as such agency. Minn. Stat. §§ 256B.01, 256B.02 and 256B.05. It has further provided that the counties shall administer medical assistance under the supervision of the Commissioner of Human Services. Minn. Stat. § 256B.05. Each county is therefore in privity with the Commissioner, and with each other in the administration of the Medical Assistance program. The Hennepin County Department of Economic Assistance is in privity with Mill Lacs County, the *Barg* claimant."

February 3, 2010, Order, ¶ 8, p. 4.

4. Claimant, the estopped party, was given a full and fair opportunity to brief and argue its claim on Minn. Stat. § 519.05(a) throughout all stages of litigation in the *Barg* case. Claimant makes no assertion that this opportunity was curtailed or otherwise infringed upon.

Based on the foregoing, the Court finds that Claimants are barred from relitigating their claim for repayment of Medical Assistance from Decedent's estate under Minn. Stat. § 519.05(a) by the doctrine of collateral estoppel, and that the Court's February 3, 2010, Order is upheld for the reasons outlined herein.

~J.M.Q.