

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

PHILIP MATTHEW STINSON II,

Appellant

vs.

OHIO DEPARTMENT OF JOB AND
FAMILY SERVICES,

Appellee.

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CASE NO. 15CV-9832

JUDGE FRENCH

**DECISION AND JUDGMENT ENTRY AFFIRMING THE DECISION OF
THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES AND
NOTICE OF FINAL APPEALABLE ORDER**

FRENCH, JUDGE

This is an appeal pursuant to R.C. 119.12 and R.C. 5101.35 from an October 14, 2015 Administrative Appeal Decision of the Ohio Department of Job and Family Services Bureau of State Hearings (the “Department”).

I. HISTORY OF THIS MATTER

Appellant Philip Matthew Stinson II enrolled in Ohio Medicaid in October, 2010. (Administrative Appeal Record, p. 11). Ohio Medicaid made monthly payments for Mr. Stinson to CareSource, a Medicaid managed care provider. From August 2014 through May 2015, Medicaid paid a total of \$14,120.20 on Mr. Stinson’s behalf. (State Hearing Record, p. 74).

On May 11, 2015, Mr. Stinson called the Wood County Department of Job & Family Services (the “County”) and asked that his case be closed because he had moved out of Ohio in July, 2014. (State Hrg. Rec. p. 41; Appellant’s Brief, p. 2).

On July 21, 2015, the County sent Mr. Stinson a Medicaid notice of overpayment in the amount of \$14,120.20 for the period from August 2014 through May 2015.

Mr. Stinson requested a state hearing, which was held on September 8, 2015. (State Hrg. Rec. p. 1). Mr. Stinson participated in the hearing. (*Id.*, p. 2). Mr. Stinson testified that in July 2014, he called the Ohio Managed Care Plan and reported that he had moved out of state. (*Id.*). He stated that in May 2015, he called Ohio Medicaid to make sure his Ohio Medicaid was closed. (*Id.*).

On October 1, 2015, the Hearing Officer issued a Decision affirming the determination of a Medicaid overpayment. The Hearing Officer stated: “Clearly, Appellant was required to report the move out of state to the Agency and he did not by his own testimony. Therefore, any erroneous payment that occurred from 8/14 through 5/15 is due to Appellant’s lack of timely reporting” (*Id.*, p. 4).

Mr. Stinson requested an administrative appeal of the State Hearing Decision.

On October 14, 2015, the Department issued its Administrative Appeal Decision. The Decision noted: “In July 2014, Appellant moved to New York. Appellant stated that he called the MCP and asked them to close his case. Appellant testified that he did not contact the Agency.” (Admin. App. Rec. p. 2). The Decision concluded as follows:

Ohio Admin. Code 5160:1-1-58(B)(2) provides that in order to be eligible for Ohio Medicaid, an individual must be a citizen of Ohio. Appellant testified that he did not contact the Agency about his move as he was letting NY and the MCP ‘handle it.’ The hearing decision determined that the erroneous payment was Appellant’s fault as he did not inform the Agency of his move to NY. Having reviewed the record and the hearing decision, we agree that Appellant did not inform the Agency of the move to NY. As a result, the erroneous payment was the fault of Appellant and Appellant should be required to repay it. We find no error in the hearing decision affecting the outcome of the appeal which would justify reversal and we affirm. (*Id.*, p. 3).

On November 3, 2015, Appellant filed this appeal from the Department’s Decision.

II. STANDARD OF REVIEW

This Court must affirm the Department's Decision if it is supported by reliable, probative, and substantial evidence and is in accordance with law. R.C. 119.12; *Univ. of Cincinnati v. Conrad*, 63 Ohio St.2d 108, 111 (1980).

III. THE COURT'S FINDINGS AND CONCLUSIONS

To be eligible for Ohio Medicaid, an individual must be a resident of Ohio. Ohio Adm. Code 5160:1-1-58(B)(2). An individual receiving Medicaid must "inform the administrative agency within ten days" of any change of address. Ohio Adm. Code 5160:1-1-55(B)(1)(d)(i).

The Department may recover "erroneous payments" through reimbursement. Ohio Adm. Code 5160:1-1-51.2(C)(2)(a); R.C. 5162.23. An "erroneous payment" is "a medicaid reimbursement made for an individual who was ineligible at the time services were received." Former Ohio Adm. Code 5160:1-1-50.1(B)(18). Such payments can be recovered even if they were not the result of fraud. (*Id.*). However, an overpayment cannot be recovered if it is the result of an administrative error not caused by the individual. Ohio Adm. Code 5160:1-1-51.2(C)(1)(b).

Appellant argues that an order of reimbursement is barred by the doctrine of unclean hands, as he did not breach any affirmative duty.

An individual receiving Medicaid must "inform the administrative agency within ten days" of any change in address. Ohio Adm. Code 5160:1-1-55(B)(1)(d)(i).

The evidence in the record is that Mr. Stinson moved out of state in July, 2014, but did not report this to the County until May, 2015.

Mr. Stinson asserts that he reported the change of address to CareSource, his managed care provider, in July, 2014.

Even if Mr. Stinson told CareSource that he had moved, this does not fulfill his obligation to report an address change to the County or the State. “Administrative agency” means “the CDJFS, ODJFS, or other entity that determines eligibility for a medical assistance program.” Former Ohio Adm. Code 5160:1-1-01(B)(1). A managed care provider is neither the County nor ODJFS, and it does not determine eligibility. The Rights & Responsibilities form provided by the County and signed by Mr. Stinson expressly states that an individual receiving assistance “must notify the Department of any change in ... address ... within 10 days.” (State Hrg. Rec. p. 39).

Mr. Stinson argues that the overpayments were not sufficiently proven because the spreadsheets showing amounts paid were not authenticated.

It is well-settled that administrative agencies are not bound by the strict rules of evidence applied in court. *Felice’s Main St. v. Ohio Liquor Control Comm.*, 10th Dist. No. 01AP-1405, 2002-Ohio-5962, ¶17. As the finder of fact, the Department was entitled to consider the spreadsheets showing Medicaid payments as reliable evidence.

Mr. Stinson argues that an order of reimbursement is barred by estoppel, would be unconscionable, and would frustrate the purpose of Medicaid. These arguments are not supported by legal authority or evidence in the record. In reviewing this appeal, the Court is bound by the law set forth above.

After reviewing the record, the Court finds that the Department’s Decision is supported by reliable, probative, and substantial evidence and in accordance with law. The Department’s Decision is **AFFIRMED**. This is a final, appealable Order. Costs to

Appellant. Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this judgment and its date of entry.

Copies to:

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Counsel for Appellee (by efileing)

Franklin County Court of Common Pleas

Date: 02-11-2016
Case Title: PHILIP MATTHEW STINSON II -VS- OHIO STATE
DEPARTMENT JOB & FAMILY SERVICES
Case Number: 15CV009832
Type: DECISION/ENTRY

It Is So Ordered.

A handwritten signature in black ink, appearing to read "J. A. French", is written over a blue circular official seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY OHIO" in the middle, and "ALL THINGS ARE" at the bottom.

/s/ Judge Jenifer A. French

Court Disposition

Case Number: 15CV009832

Case Style: PHILIP MATTHEW STINSON II -VS- OHIO STATE
DEPARTMENT JOB & FAMILY SERVICES

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes