ATTORNEYS FOR APPELLANT

Theodore E. Rokita
Attorney General

Evan Matthew Comer
Deputy Attorney General
Indianapolis, Indiana

ATTORNEYS FOR APPELLEES

Roger T. Coffin
Coffin, Coffin & Blackman
Martinsville, Indiana

Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.
Indianapolis, Indiana

# IN THE
# COURT OF APPEALS OF INDIANA

In re the Guardianship of Clarence E. Weber (an Incapacitated Adult)

Indiana Family and Social Services Administration,

*Appellant-Intervenor,*

v.

Clarence E. Weber,
Mary M. Weber,

*Appellees-Petitioners*

December 20, 2022

Court of Appeals Case No. 21A-GU-2680

Appeal from the Morgan Superior Court

The Honorable Brian H. Williams, Judge

Trial Court Cause No. 55D02-1905-GU-28

**Vaidik, Judge.**

# Case Summary

[1] To be eligible for Medicaid, an applicant's income and resources must be below certain thresholds. Although spouses' income and resources are generally considered jointly held and available to both, Congress has passed statutes allowing one spouse to maintain certain assets, including a monthly allowance, without those assets affecting the Medicaid eligibility of the other spouse. This monthly allowance is determined by statute but can be increased if one spouse has a court order of support from the other in an amount higher than the statutory amount.

[2] Here, after the trial court granted Mary Weber guardianship over her incapacitated husband, Clarence Weber, she moved for and received an order for spousal support. This spousal-support order was then used to increase Mary's allowance and offset Clarence's income when he applied for Medicaid, which in turn increased the amount of Medicaid funding he received. Almost a year after the spousal-support order was issued, the Indiana Family and Social Services Administration (FSSA), the State's Medicaid agency, moved to intervene and for relief from judgment, arguing the trial court's spousal-support order was contrary to law. The trial court granted FSSA's request to intervene but found it is not entitled to equitable relief.

[3] FSSA now appeals, arguing the spousal-support order is erroneous and that it is entitled to relief from judgment. Mary cross-appeals, arguing the court erred in granting FSSA's request to intervene. We conclude the trial court did not err in

allowing FSSA to intervene, given its significant interest in the proceedings. And we agree with FSSA that Indiana's spousal-support statute does not permit an award of support in Mary's case and that extraordinary circumstances here warrant equitable relief. We therefore affirm in part and reverse and remand in part.

# Facts and Procedural History

## I. Medicaid

[4] The purpose of Medicaid is to provide assistance to needy persons whose income and resources are insufficient to meet the expenses of health care. *Ind. Family & Soc. Servs. Admin. v. Thrush*, 690 N.E.2d 769, 771 (Ind. Ct. App. 1998), *trans. denied*. The program operates through a combined scheme of state and federal statutory and regulatory authority. *Id.* States participating in the Medicaid program must establish reasonable standards for determining eligibility, including the reasonable evaluation of an applicant's income and resources. *Id.* To qualify for Medicaid, an applicant must meet both an income-eligibility test and a resources-eligibility test. *Id.* If either the applicant's income or the value of the applicant's resources is too high, the applicant does not qualify for Medicaid. *Id.*

[5] Until 1988, states generally considered the income of either spouse to be available to the other and considered assets jointly held by the couple to be available in full to either spouse. *Wis. Dep't of Health & Family Servs. v. Blumer*, 534 U.S. 473, 479 (2002). But this practice produced "unintended

consequences" when one spouse required nursing home or other live-in care ("the institutionalized spouse") and one spouse remained living at home ("the community spouse"). *Id.* at 480. "Many community spouses were left destitute by the drain on the couple's assets necessary to qualify the institutionalized spouse for Medicaid and by the diminution of the couple's income posteligibility to reduce the amount payable by Medicaid for institutional care." *Id.*

[6] In response to this issue, Congress enacted the Medicare Catastrophic Coverage Act of 1988 ("the Act"). 42 U.S.C. § 1396r-5. The Act includes spousal-impoverishment provisions which permit the community spouse to reserve certain income and assets to meet their needs while maintaining Medicaid eligibility for the institutionalized spouse. *Blumer*, 534 U.S. at 478. The provisions shelter from diminution a standard amount of assets, *id.*, including a monthly allowance for the community spouse, referred to as the "minimum monthly needs maintenance allowance," 42 U.S.C. § 1396r-5(d)(1)(B). If the community spouse's monthly income is below the minimum monthly needs maintenance allowance, that shortfall—called the community spouse monthly income allowance—is "deducted" from the income of the institutionalized spouse and reallocated to the community spouse, reducing the amount of income that would otherwise be considered available for the institutionalized spouse's care. *Blumer*, 534 U.S. at 481. As a result, Medicaid will pay a greater portion of the institutionalized spouse's medical expenses. *Id.* at 482.

[7] Although the Act sets the allowance at a certain amount, it also provides mechanisms through which a community spouse may increase their allowance. Under the Act, if a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse's allowance "shall be not less than the amount of the monthly income so ordered." 42 U.S.C. § 1396r-5(d)(5). Additionally, if either spouse establishes that "the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the [allowance] . . . an amount adequate to provide such additional income as is necessary." *Id.* at (e)(2)(B). Similarly, Indiana's Medicaid statutes provide that where an institutionalized spouse is eligible for Medicaid, and either spouse "establishes that a higher allowance is needed due to exceptional circumstances resulting in significant financial duress," the allowance "may be increased after an administrative hearing or by a court order." Ind. Code § 12-15-2-25.

## II. The Webers

[8] Clarence and Mary married in 1965. In 2018, eighty-three-year-old Clarence began exhibiting poor mental health, including hoarding, paranoia, aggression, and memory loss. In February 2019, he underwent a psychiatric examination and was diagnosed with dementia, bipolar disorder, anxiety, and post-traumatic stress disorder. In May, Clarence was institutionalized in a nursing-care facility

and Mary moved for temporary guardianship over his person and estate, which the court granted.

[9] In August, Mary petitioned for spousal support in the guardianship case under Indiana Code section 31-16-14-1, which provides for spousal support between still-married spouses in certain situations. Mary alleged Clarence was incapacitated and "that exceptional circumstances exist which will result in significant financial duress for [Mary] unless the Court enters a spousal support order in [her] favor." Appellant's App. Vol. II p. 43. An "Agreed Stipulation For Spousal Support" was filed the same day, signed by Mary, Clarence (despite being under guardianship), and their respective attorneys, agreeing Mary should receive $3,800 a month from Clarence in spousal support. *Id.* at 51. On August 9, 2019, the court issued an order granting Mary $3,800 a month in spousal support, finding Clarence is incapacitated and "exceptional circumstances" exist requiring support. *Id.* at 63. Later that month, Clarence applied for Medicaid funding and included in his application the court's spousal-support order. In November, FSSA issued Clarence an "Eligibility Notice of Action" stating its temporary approval of Clarence's Medicaid eligibility.

[10] In August 2020, FSSA moved to intervene in the guardianship proceedings and filed a motion for relief from judgment under Trial Rule 60(B). The trial court granted the motion to intervene, and a hearing was held on the motion for relief. At the hearing, Mary argued in part that "exceptional circumstances" support the order and cited for the first time Indiana Code section 12-15-2-25—

the part of the Indiana Medicaid statutes providing that a community spouse's allowance may be increased upon a showing of "exceptional circumstances"—notwithstanding that she had not brought her spousal-support petition or any other motion under that statute.

[11] The trial court agreed with Mary and denied the motion for relief. Without reaching the merits of the spousal-support order, the court determined FSSA was not entitled to equitable relief because Indiana Code section 12-15-2-25(d) instructed FSSA to adopt rules "setting forth the manner in which the office will determine the existence of exceptional circumstances resulting in significant financial duress" and FSSA had yet to do so. Therefore, the court concluded an equitable remedy "should not be available to the FSSA due to their own failure to fully comply with their statutory obligation(s), such that this dispute might have been originally avoided by having their guidance." *Id.* at 198.

[12] FSSA now appeals, arguing the trial court erred in denying its Rule 60(B) motion for relief from judgment. Mary cross-appeals, arguing the court erred in granting FSSA's motion to intervene.

# Discussion and Decision

## I. Motion to Intervene

[13] FSSA brought its motion to intervene under Indiana Trial Rule 24(A), alleging that it had an interest in this case sufficient to intervene as a matter of right.[1] We agree.

[14] We review a trial court's decision on a motion to intervene for abuse of discretion, taking all the facts alleged in the motion as true. *JPMorgan Chase Bank, N.A. v. Claybridge Homeowners Ass'n, Inc.*, 39 N.E.3d 666, 669 (Ind. 2015). FSSA's intervention comes after the trial court entered the spousal-support order, which "adds another layer to our standard of review." *Id.* Post-judgment intervention is generally "disfavored," although it is appropriate in certain "extraordinary and unusual circumstances," particularly when "the petitioner's rights cannot otherwise be protected." *Citimortgage, Inc. v. Barabas*, 975 N.E.2d 805, 816 (Ind. 2012) (quoting *Bd. of Comm'rs. of Benton Cnty. v. Whistler*, 455 N.E.2d 1149, 1153-54 (Ind. Ct. App. 1983)).

[15] Indiana Trial Rule 24(A)(2) provides upon timely motion anyone shall be permitted to intervene in an action

---

[1] FSSA alternatively brought its motion to intervene under Trial Rule 24(B), arguing if it could not intervene as a matter of right it nonetheless could intervene with the court's permission. The trial court, in its order granting FSSA's motion to intervene, did not specify whether it was granting the motion under Rule 24(A) or 24(B). Because we have determined FSSA can intervene here as a matter of right, we need not address its permissive-intervention argument.

> when the applicant claims an interest relating to a property, fund or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect his interest in the property, fund or transaction, unless the applicant's interest is adequately represented by existing parties.

Both parties confine their arguments to the first element: whether FSSA has a sufficient interest in the subject of the action. "An applicant seeking intervention must claim an immediate and direct interest in the proceedings." *In re Paternity of E.M.*, 654 N.E.2d 890, 893 (Ind. Ct. App. 1995).

[16] Mary asserts FSSA does not have a sufficient interest in the action, citing *State ex rel. Stanton v. Superior Court of Lake County*, 355 N.E.2d 406 (Ind. 1976). There, a husband and wife divorced so the wife could qualify for public benefits. In the dissolution proceedings, the trial court joined the Department of Public Welfare, who would be responsible for providing those benefits. The Department appealed, arguing it did not have an interest in the dissolution proceedings. Our Supreme Court agreed and reversed, finding the Department did not have "an interest in the marriage or its dissolution that could be litigated therein." *Id.* at 407. The Court acknowledged the Department may have an interest to the extent it "may or may not pay benefits to the parties" after dissolution but found this to be a "passing or casual" concern. *Id.*

[17] We find *Stanton* distinguishable. There, as the Court noted, the Department's interest was limited—it "may or may not pay benefits to the parties" after the dissolution—but it had no interest that could actually be litigated in the

dissolution proceedings. In fact, the Department did not claim any interest and did not want to join the proceedings. In contrast, here FSSA's claim regarding the validity of the spousal-support order can be—and already has been—litigated in the guardianship proceedings. And this interest is "direct and immediate," as the order directly affects the amount of money FSSA must pay for Clarence's care. This situation is more akin to *In re Guardianship of Coffey*, 624 N.E.2d 465 (Ind. 1993), in which our Supreme Court encouraged FSSA to intervene in this way. There, a trial court ordered FSSA, who was not a party to the guardianship proceedings, to nonetheless reimburse the guardian for expenses incurred in appealing a Medicaid determination. FSSA appealed. Our Supreme Court dismissed, reasoning FSSA, as a nonparty, could not appeal. The Court instructed FSSA to "instead present its claim to the [trial court] by way of motion to intervene and a request for relief from judgment." *Id.* at 466. That is exactly what FSSA did here.

[18] Finally, we emphasize that while post-judgment intervention is generally disfavored, extraordinary and unusual circumstances are present. First, the judgment entered here did not go through any sort of adversarial proceeding. Clarence, who was incapacitated and under guardianship, entered into an agreement with Mary, his guardian, to pay her spousal support. The trial court then issued an order reflecting this agreement. FSSA had no notice of this proceeding to represent its interest before the judgment. Second, and as detailed further below, the plain language of the spousal-support statute does not provide for an award of support in the Webers' situation. Finally, FSSA cannot

challenge the order through its own internal process by adjusting the amount of the community spouse monthly income allowance since it is required to honor court-ordered spousal awards. 42 U.S.C. § 1396r-5(d)(5).[2] In this uncommon and extraordinary situation—where FSSA would otherwise be bound to honor a spousal-support order for which there was no basis in law—FSSA has the right to intervene, even post-judgment, in order to protect its interests in the only way it can.

[19] The trial court did not abuse its discretion in granting FSSA's motion to intervene.

## II. Motion for Relief from Judgment

[20] FSSA argues the trial court erred in denying its motion for relief from judgment under Trial Rule 60(B)(8).[3] Rule 60(B)(8) provides in relevant part:

> On motion and upon such terms as are just the court may relieve a party or his legal representative from an entry of default, final order, or final judgment . . . for . . . any reason justifying relief

---

[2] FSSA stated at the hearing that it "did not believe [it has] the authority to ignore a [c]ourt order" and that it had to "actually intervene to overturn" the order, rather than address any alleged errors during the Medicaid determination process. Tr. Vol. II p. 5. Mary does not dispute this. This aligns with the Act's language, which states if a court has ordered the institutionalized spouse to support the community spouse, the community spouse's allowance "**shall** be not less than the amount of the monthly income so ordered." 42 U.S.C. § 1396r-5(d)(5) (emphasis added). While Indiana courts have not addressed this section of the Act, at least one state supreme court has said states are bound by court orders for support when making Medicaid determinations. *See Valliere v. Comm'r of Soc. Servs.*, 178 A.3d 346, 366 (Conn. 2018); *contra R.S. v. Div. of Med. Assistance & Health Servs.*, 83 A.3d 868, 877 (N.J. Super. Ct. App. Div. 2014) (holding state's Medicaid agency could refuse to give effect to a support order).

[3] FSSA also claims it is entitled to relief under Rule 60(B)(1), 60(B)(2), and 60(B)(6). Because we find its argument under Rule 60(B)(8) to be dispositive, we do not address these alternative arguments.

> from the operation of the judgment, other than those reasons set forth in sub-paragraphs (1), (2), (3), and (4).

"That is, Rule 60(B)(8) provides relief from judgment for any reason other than those set forth in Rules 60(B)(1) (mistake, surprise, or excusable neglect), 60(B)(2) (any grounds that could be raised on motion to correct error), 60(B)(3) (fraud), or 60(B)(4) (default without proper notice)." *In re Paternity of M.M.B.*, 877 N.E.2d 1239, 1242 (Ind. Ct. App. 2007). The rule also provides that, before a movant may be granted relief, the movant must show a meritorious claim or defense. *Lloyd v. Kuznar*, 180 N.E.3d 353, 364 (Ind. Ct. App. 2021), *trans. denied*. Additionally, a party asking for relief under Rule 60(B)(8) must show "some extraordinary circumstances" justifying the relief. *State v. Collier*, 61 N.E.3d 265, 268 (Ind. 2016). *Id.* The decision of whether to grant or deny a Rule 60(B)(8) motion is left to the equitable discretion of the trial court and generally is reviewable only for abuse of that discretion. *Id.*

## A. Meritorious Claim or Defense

[21] FSSA argues it has a meritorious claim or defense because the trial court's spousal-support order is contrary to law. We agree. The trial court granted Mary spousal support based on Indiana Code section 31-16-14-1(a)(3), which provides that:

> A dependent spouse may bring an action in a circuit or superior court to obtain support from the other spouse for the benefit of the dependent spouse and the dependent children in the custody of the dependent spouse if:

. . .

(3) the other spouse:

(A) becomes incapacitated; or

(B) neglects to provide support for the dependent spouse or dependent children;

because the other spouse is a habitual drunkard[.]

[22] This statute does not apply to the facts here. While, as Mary argues, Clarence is incapacitated, that is not all the statute requires. It states the other spouse—here Clarence—must become incapacitated **because** he is a "habitual drunkard." And there is absolutely no evidence that Clarence is. Mary did not claim as much in her petition for spousal support nor did the trial court find as much in its order awarding support. Instead, the record makes clear Clarence is incapacitated as a result of his declining mental health. And the court's finding of "exceptional circumstances" does not allow for an award of support under the statute. In fact, the term "exceptional circumstances" does not appear in Section 31-16-14-1 at all. Thus, we agree with FSSA that the trial court erred in granting Mary spousal support under Indiana Code section 31-16-14-1.

[23] But Mary argues that, even if the trial court erred in awarding her spousal support under Section 31-16-14-1, its finding within the support order that there were "exceptional circumstances" entitling her to spousal support is still "valid

for determining the amount of [Clarence's] available financial resources" under Indiana Code section 12-15-2-25. Appellee's Br. p. 30.

[24] Mary's argument under Section 12-15-2-25 is misplaced. That statute provides:

> (a) This section applies to an individual who:
>
> > (1) is eligible for Medicaid;
> >
> > (2) resides in a nursing facility or another medical institution; and
> >
> > (3) has a community spouse.
>
> (b) An individual described in subsection (a) is entitled to retain an income allowance for the purpose of supporting a community spouse if:
>
> > (1) the community spouse's income is less than the minimum monthly needs allowance established under 42 U.S.C. 1396r-5(d)(3); and
> >
> > (2) an increased amount is necessary to increase the community spouse's income to the minimum monthly needs allowance.
>
> (c) If either spouse establishes that a higher allowance is needed due to exceptional circumstances resulting in significant financial duress, the minimum monthly needs allowance may be increased after an administrative hearing or by a court order.
>
> (d) The office shall adopt rules under IC 4-22-2 setting forth the manner in which the office will determine the existence of

> exceptional circumstances resulting in significant financial duress under subsection (c).

I.C. § 12-15-2-25. Mary's argument is the trial court's finding of "exceptional circumstances" entitling her to spousal support is also "valid for determining the amount of [Clarence's] available financial resources" and therefore her minimum monthly needs allowance under Section 12-15-2-25. But Mary did not bring her spousal-support petition under Section 12-15-2-25. Nor did the trial court's order reference Section 12-15-2-25 when it stated she was experiencing "exceptional circumstances." Nor was the finding made in the context of determining Mary's minimum monthly needs allowance. In fact, at the time the order was issued, Clarence had not even applied for Medicaid. As explained above, there are two mechanisms for increasing a community spouse's allowance: court-ordered support under 42 U.S.C. § 1396r-5(d)(5) or a finding of exceptional circumstances under 42 U.S.C. § 1396r-5(e)(2)(b) and I.C. § 12-15-2-25(c). These are separate mechanisms, yet Mary's argument conflates them. Mary sought to increase her future allowance under the first—applying for spousal support and then using that order when applying for Clarence's Medicaid. She now seeks to essentially transfer findings from that order—findings made in an entirely different context—to meet the required showing under the second mechanism. This she cannot do.

[25] The trial court's order granting Mary spousal support was erroneous, and thus FSSA has shown a meritorious claim or defense.

## B. Equitable Relief

[26] Finally, FSSA argues the trial court erred in determining it was not entitled to equitable relief. The trial court found equitable relief "should not be available to the FSSA due to [its] own failure to fully comply with [its] statutory obligation(s) [under Indiana Code section 12-15-2-25,] such that this dispute might have been originally avoided by having [its] guidance." Appellant's App. Vol. II p. 198.

[27] While equitable relief may be denied on the basis that the movant has "unclean hands," or is not "free of wrongdoing in the matter before the court," that alleged wrongdoing must "have an immediate and necessary relation to the matter being litigated." *Hardy v. Hardy,* 910 N.E.2d 851, 856-57 (Ind. Ct. App. 2009). Here, indisputably FSSA has failed to adopt rules as required under Section 12-15-2-25. But again, Section 12-15-2-25 is not the relevant statute. Mary did not bring her petition under it, nor did the trial court award her support based on it. FSSA's failure to adopt rules setting out the "exceptional circumstances" under that statute has no bearing on whether it is entitled to relief from the spousal-support order.

[28] Having determined the trial court's reasoning for denying relief is erroneous, we now address whether FSSA is entitled to equitable relief under the circumstances. We conclude it is. As noted above, these are unique circumstances. FSSA had no opportunity to challenge this order before it was made final—nor did any party challenge it in any way before it was made final—and it does not appear FSSA has an alternative means of doing so now.

And this order has significant impact on FSSA, as it compels them to pay for amounts of Clarence's care that it would not otherwise be obligated to provide. We believe FSSA has shown extraordinary circumstances warrant relief here.

[29] Despite the outcome of this appeal, we note Mary still has a remedy available to her. Before Clarence applied and was found eligible for Medicaid, Mary was not entitled to seek a community spouse allowance pursuant to Indiana Code Section 12-15-2-25, which only applies to spouses of institutionalized persons eligible for Medicaid. But Clarence was found eligible for Medicaid in November 2019, at which time both federal and state Medicaid law permit either Clarence or Mary to seek a Medicaid determination that Clarence is entitled to retain for Mary a community spouse income allowance higher than the minimum monthly needs allowance due to exceptional circumstances resulting in significant financial duress. *See* 42 U.S.C. § 1396r-5(d)(1)(B); I.C. § 12-15-2-25(b), (c). If they are dissatisfied with FSSA's determination on that issue, they may appeal that determination through the administrative appeals process and/or the courts. *See* 42 U.S.C. § 1396r-5(e)(2) (allowing either spouse to obtain a fair hearing challenging the amount of the allowance); I.C. § 12-15-2-25(c) (allowing either spouse to establish that a higher income allowance is needed); I.C. § 12-15-28 (regarding appeals and hearings in the Medicaid context).

[30] This remedy is available to Mary and Clarence despite FSSA's admitted failure to adopt rules "setting forth the manner in which the office will determine the existence of exceptional circumstances resulting in significant financial duress"

as required under Indiana Code Section 12-15-2-25(d). *Id*. However, "[d]ue process requires that standards should be written with sufficient precision to give fair warning as to what the agency will consider in making its decision." *Leone v. Comm'r, Ind. Bureau of Motor Vehicles*, 933 N.E.2d 1244, 1255 (Ind. 2010). Therefore, should the Webers be dissatisfied with FSSA's determination of the amount of the community spouse monthly income allowance, they may have a due-process claim on appeal of that decision, since FSSA has no written standards at all regarding what it considers in determining the existence of exceptional circumstances resulting in significant financial duress.

[31] Affirmed in part and reversed and remanded in part.

Riley, J., and Bailey, J., concur.