IN THE COURT OF APPEALS OF IOWA

No. 7-181 / 05-1827
Filed June 27, 2007

HAMILTON COUNTY, IOWA, A Political Subdivision,
Plaintiff-Appellee/Cross-Appellant,

vs.

WEBSTER COUNTY, IOWA, A Political Subdivision,
Defendant-Appellant/Cross-Appellee,

IOWA DEPARTMENT OF HUMAN SERVICES,
Intervenor-Appellee.

Appeal from the Iowa District Court for Hamilton County, Timothy J. Finn, Judge.

Webster County appeals, and Hamilton County cross-appeals, from the ruling on a dispute over which party should bear the costs of a person's care in the Woodward State Resource Center. **REVERSED.**

Timothy N. Schott, Webster County Attorney, Fort Dodge, for appellant.

Patrick B. Chambers, Hamilton County Attorney, Webster City, for appellee.

Thomas J. Miller, Attorney General, and Mary Pippin, Assistant Attorney General, for intervenor-State.

Heard by Sackett, C.J., Vogel and Baker, JJ., and Nelson, S.J.

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2007).

VOGEL, J.

Webster County appeals and Hamilton County cross-appeals from the ruling on a dispute over which party should bear the costs of an individual's care in the Woodward State Resource Center. We reverse.

Background Facts and Proceedings.

The facts in this case are not in dispute. C.W., who has been described as "profoundly mentally retarded," was born in 1945 in Wyoming. Her parents, Loveda and Robert, were not married at the time of her birth.[1] In the early 1950s the family moved to Hamilton County, Iowa. On June 17, 1951, Loveda and Robert voluntarily placed C.W. into a state facility then known as Woodward State Hospital, now known as Woodward State Resource Center (Woodward). The application for admission to Woodward, which acknowledged her residence as being in Hamilton County, was approved by the Hamilton County Board of Supervisors, attested to by the Hamilton County Auditor, and signed by the Hamilton County Attorney.

In 1954, while C.W. still remained in the Woodward facility, Loveda and Robert moved to Fort Dodge, in Webster County. They remained in Webster County until 1985, when they moved to Eldridge in Scott County. On April 16, 1966, C.W. turned twenty-one years of age.[2] At that time, C.W.'s parents resided in Webster County. Having reached the age of majority, C.W. was discharged from Woodward. From 1966 until October of 1984, C.W. resided in various Iowa facilities located in Des Moines, Webster City, Gowrie, Fort Dodge,

[1] After the initiation of this suit, a birth certificate was discovered listing another individual as C.W.'s birth father.

[2] Iowa Code § 591.1 (1966) provided the age of majority was twenty-one years.

Humboldt and Emmetsburg. On October 1, 1984, C.W. was readmitted to the Woodward facility and continued to reside there until the time of trial in this matter. The Chairman of the Hamilton County Board of Supervisors, having made the determination that Hamilton County was C.W.'s legal settlement, signed the 1984 readmission application.

Throughout both of C.W.'s stays at the Woodward facility, Hamilton County continued to pay the cost of her care. However, beginning in September of 2003, Hamilton County stopped paying the bills. It thereafter gave notice to Webster County, contending that Webster County had been obligated for most of her past care, and that it owed Hamilton County $573,387.85 for monies it had improperly expended. Webster County denied the claim and asserted various affirmative defenses including statute of limitations, laches, and lack of jurisdiction. On February 24, 2004, Hamilton County brought suit in the district court to determine C.W.'s "legal settlement," and thus which county was obligated to pay for her care at the Woodward facility. The State of Iowa, through the Department of Human Services, subsequently intervened and argued that C.W.'s legal settlement was established in 1951 in Hamilton County and had not changed.

Following a trial, the district court held that in 1956 C.W.'s legal settlement changed to Webster County as a result of her parents' move to that county. It therefore ruled that Webster County should have been liable for the costs of C.W.'s care at Woodward since 1956. However, it further ruled that it would be inequitable to require Webster County to pay for past costs since it had no notice of its obligation until 2003. It therefore held the doctrine of laches precluded

Hamilton County from recovering any of its payments that were made before August of 2003, at which time it put Webster County on notice of its potential liability. Accordingly, it entered judgment in favor of Hamilton County for $52,091.28, with interest from June 1, 2005. Webster County appeals and Hamilton County cross-appeals from this judgment. The State has filed a joinder in Webster County's brief.

Subject Matter Jurisdiction.

Webster County first asserts that the trial court was without jurisdiction to hear the case, and that it should now be dismissed. In particular, Webster County argues that legislative changes that occurred in 2004 served to divest the district court of jurisdiction, instead requiring an administrative action with the Department of Inspections and Appeals. Subject matter jurisdiction may of course be raised at any time. *Pierce v. Pierce*, 287 N.W.2d 879, 882 (Iowa 1980).

Prior to July 1, 2004, Iowa Code section 222.70 (2003) governed disputes concerning legal settlement and determinations as to the responsible county for the payment of the care of its residents. In sum, that section provided for two methods in which to settle such a dispute. The first provided for a district court action in which the contesting counties and the Attorney General, on behalf of the State, were to be parties to the action. Iowa Code § 222.70(1). The second allowed for an alternative dispute mechanism process between the contesting counties. Iowa Code § 222.70(2).

In 2004, the legislature substantially modified the mechanisms by which legal settlement dispute resolution takes place. Iowa Code section 222.70 was

amended to read, in pertinent part, that such disputes "shall be resolved as provided in section 225C.8." Further, the 2004 legislation provided the following as to its applicability:

> 1. The timeframes specified in section 225C.8, as enacted by this division of this Act, are applicable to legal settlement disputes involving billings for services provided on or after July 1, 2004.
> 2. For legal settlement disputes involving billings for services provided prior to July 1, 2004, unless the county disputed the billing prior to July 1, 2004, the person's legal settlement shall be deemed to be in the county that was billed for services provided to the person. However, if a county disputed the billing for a service provided prior to July 1, 2004, and the matter cannot be resolved with the department of human services or with the other county, in lieu of the forty-five-day period specified in section 225C.8, subsection 2, a party may move for the matter to be resolved in the manner provided in section 225C.8, at any time prior to January 1, 2005. If a party has not made such a motion, effective January 1, 2005, the matter shall be closed and the person's legal settlement shall be in the county that was billed for services provided to the person.

Iowa Code section 225C.8(2) now provides, in short, that legal settlement disputes shall be resolved by filing a motion to the Department of Inspections and Appeals for a contested case hearing under chapter 17A before an administrative law judge. It is undisputed that this administrative process was not invoked in this case.

The amendment to sections 222.70 and the addition of section 225C.8 were passed on April 14, 2004. *See* 2004 Iowa Acts ch. 1090, § 43. Iowa Code section 3.7 (2003) states that, unless otherwise provided, all acts of the general assembly shall take effect on the first day of July following their passage. Accordingly, these amendments became effective on July 1, 2004. This suit was filed on February 24, more than four months prior to the effective date. Because the new provisions were not in effect at the time this action was filed, we

conclude Iowa Code section 222.70 (2003) applies. Thus, the new legislation did not serve to divest the district court of subject matter jurisdiction.

Legal Settlement.

Legal settlement is similar to the concept of domicile. *Audubon County v. Vogessor,* 228 Iowa 281, 286, 291 N.W. 135, 136 (1940). It requires more than mere physical presence in the county. *Id.* The individual must intend to remain in the county of legal settlement indefinitely. *State ex rel. Palmer v. Hancock County,* 443 N.W.2d 690, 691 (Iowa 1989); *Audubon County,* 228 Iowa at 285, 291 N.W. at 136. The concept of legal settlement is meant to allow assessment of expenses and responsibility to the county in which the individual lived and which received the benefits of the individual's residence prior to the need for public assistance. *State ex rel. Palmer v. Dubuque County*, 473 N.W.2d 190, 192 (Iowa 1991).

Webster County argues "the trial court erred in applying the current legal settlement law instead of the legal settlement law in 1951." Upon our de novo review, see Iowa R. App. P. 6.4, we agree with Webster County to the extent that we must give effect to the relevant Code provisions that were extant at the time of the significant events through the course of this over half-century time line.

As noted, C.W. was first admitted to the Woodward facility in 1951. At the time of her admission, her parents resided in Hamilton County. The 1950 Code provided that the "necessary and legal costs and expenses attending the . . . care . . . of an insane person committed to a state hospital shall be paid . . . [b]y the county in which the person has legal settlement." Iowa Code § 230.1(1) (1950). In addition, the Code provided that the "residence of any person . . . who

is an inmate of any state institution shall be that existing at the time of the admission thereto." *Id.* Thus, the significant point of reference is the date of admission to the facility.

In 1951, pursuant to section 252.16(5), "legitimate" children "[took] the settlement of their father, if there be one, if not, then that of the mother." Pursuant to section 252.16(6), "illegitimate" children, such as C.W., "[took] the legal settlement of their mother." Accordingly, under either of these provisions, at the time of her admission to Woodward, C.W.'s legal settlement was the same as that of her parents, namely, Hamilton County. Unless some other Code provision served to change that initial settlement determination, that determination would remain, as legal settlement "shall be that existing at the time of the admission thereto." Iowa Code § 230.1(1). This conclusion is also mandated by Iowa Code section 252.17 (1950), which states that a "legal settlement *once acquired shall so remain* until such a person had removed from the state . . . or has acquired a legal settlement in some other country or state." (Emphasis added.)

C.W.'s parents moved to Webster County in 1954. The question becomes whether C.W.'s legal settlement likewise changed along with her parents', despite the fact C.W. had never resided in Webster County. The Code at that time did not contain any provision for determining whether and how a minor child's legal settlement may ever change. As such, it could be considered that settlement was fixed indeterminately at the time of admission, at least for a minor. Not until 1974 was Iowa Code section 252.16(3) amended to provide that a minor residing in an institution "assumes the settlement of his or her parents" and that settlement of the "minor child changes with the settlement of the parent."

Iowa Code § 252.16(3) (1975). But, it further provided that the child shall "retain the settlement that his parent has on the child's eighteenth birthday until he is discharged from the institution . . . ." *Id.*

However, by the time this provision had been added to the Code in 1974, C.W. had already reached the age of majority, in 1966. Thus, as she was no longer a minor, the amendment to section 232.16(3) did not serve to shift her county of legal settlement to that of her parents, Webster County. There is no indication this provision was intended to apply retroactively, that is, to effectuate a change of legal settlement either in 1956, when C.W.'s parents' legal settlement changed to Webster County, or in 1966, when C.W. turned twenty-one and was discharged from the Woodward facility. *See* Iowa Code § 4.5 (2005) ("A statute is presumed to be prospective in its operation unless expressly made retroactive."); *Matter of D.N.* 522 N.W.2d 824, 828 (Iowa 1994) (declining to apply a statute retroactively in a legal settlement dispute); *Dubuque County*, 473 N.W.2d at 192 (same). Accordingly, we believe the district court was in error when it determined that "C.W.'s legal settlement changed in 1956 to Webster County as a result of her mother's and her mother's husband's move to . . . Webster County in 1954."[3] The error occurred in applying a then non-existent Code provision.

We now consider whether other changes over the years serve to shift C.W.'s legal settlement. The next relevant event to occur in this time line was in 1966, when C.W. reached the age of majority and was discharged from the

[3] Iowa Code section 252.16(1) (1950) provided that new legal settlement is acquired by continuously residing in a county for two years.

Woodward facility. The question becomes whether this occurrence affected the legal settlement question. At that time, as an adult, C.W.'s legal settlement was no longer tied to that of her parents. Again, the 1966 Iowa Code provided that the legal settlement "shall be that existing at the time of admission thereto." Iowa Code § 230.1(2) (1966). This principal, taken in conjunction with the rule expressed in section 252.17 providing that a legal settlement "once acquired shall so remain," warrants a determination that C.W.'s legal settlement continued in Hamilton County.

Finally, C.W. was readmitted to the Woodward facility in 1984, after having spent the intervening years in various homes and placements. By this time, while the legislature had specifically provided that settlement of a minor child shall change with the settlement of the parent, *see* Iowa Code § 252.16(3) (1983), C.W. was no long a minor, so this provision did not apply. Moreover, because C.W. had been a resident of various institutions supported by public funds, she did not acquire a new legal settlement in any of the counties in which those intervening facilities were located. *See* Iowa Code § 252.16(3) (providing that a person who is "an inmate of or is supported by an institution" supported by public funds, shall not acquire a settlement in that county unless before becoming supported by the institution, the person already had legal settlement in that county); *Dubuque County*, 473 N.W.2d at 192. Finally, the Code also specified that once a resident reaches eighteen years of age, his or her legal settlement shall remain as it was on that day, until he or she is discharged, at which time his or her own legal settlement is acquired. *Id.* Of course, because

C.W. has never been discharged since this date, no new legal settlement was acquired.

Conclusion.

At the time of C.W.'s admission to Woodward, her county of legal settlement was considered to be Hamilton County by virtue of the residence of her parents. Nothing in the intervening time frame has effected a change of her county of legal settlement. Consequently, the district court erred in concluding that her legal settlement has been Webster County since 1956 and we reverse its ruling to that effect. By virtue of this ruling, we need not address Hamilton County's contentions in its cross-appeal that the court erred in applying the doctrine of laches to prohibit recoupment of those expenses paid out prior to August 2003 and in failing to impose interest at the rate specified in Iowa Code section 222.68.

REVERSED.