

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
September 14, 2007 Session

IN RE: ESTATE OF MARTHA M. TANNER, deceased

**Direct Appeal from the Circuit Court for Davidson County
No. 05P-1603 Randy Kennedy, Judge**

No. M2006-02640-COA-R3-CV - Filed December 7, 2007

The Tennessee Bureau of TennCare filed a claim pursuant to Tennessee Code Annotated § 71-5-116(c) to recover medical benefits paid on behalf of Decedent from Decedent's estate. The trial court dismissed the action as time-barred under Tennessee Code Annotated §§ 30-2-307(a)(1) and 310(b). The Bureau appeals, asserting its right to recover is not subject to the limitations period prescribed in Title 30. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed; and Remanded

DAVID R. FARMER, J., delivered the opinion of the court, in which HOLLY M. KIRBY, J. and STEVE R. DOZIER, SP. J., joined.

Robert E. Cooper, Jr., Attorney General and Reporter and L. Vincent Williams, Deputy Attorney General, for the appellant, The Tennessee Bureau of TennCare.

Helen Sfikas Rogers and Lawrence J. Kamm, Nashville, Tennessee, for the appellee, Thomas Tanner.

MEMORANDUM OPINION¹

This appeal requires us to determine whether the one-year limitations period applicable to the filing of claims against a decedent's estate applies to claims asserted by the Tennessee Bureau of TennCare ("the Bureau") for recovery of correctly paid medical benefits under Tennessee Code

¹Rule 10 of the Rules of the Court of Appeals of Tennessee provides:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION", shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

Annotated § 71-5-116(c). The facts relevant to our disposition of this matter are undisputed. Beginning in 1993, the Bureau correctly paid medical benefits to Martha Tanner (Mrs. Tanner), who died intestate on January 14, 2004, at 96 years of age. At the time of her death, Mrs. Tanner's son, Thomas Tanner (Mr. Tanner), was acting as her conservator. Mrs. Tanner's conservatorship was closed on June 20, 2004. On November 2004, The Bureau received a request for release from Mr. Tanner. In response, the Bureau sent Mr. Tanner a letter stating that it may have a claim against Mrs. Tanner's estate for nursing home payments, enclosed a form for additional information, and requested Mr. Tanner complete and return the form by December 8, 2004. Mr. Tanner apparently did not return the form. Mr. Tanner also did not initiate an estate proceeding. In December 2004, the Bureau attempted to file a claim against the closed conservatorship. The probate clerk rejected that claim on December 20, 2004.

On August 17, 2005, one year and seven months after Ms. Tanner's death, the Bureau filed a complaint in chancery court to appoint an administrator of Mrs. Tanner's estate pursuant to Tennessee Code Annotated §§ 30-1-301 to 311. In its complaint, the Bureau asserted it was a creditor of the estate and alleged that Mrs. Tanner's property should be subject to her obligation to the Bureau. The chancery court appointed Monica Edwards as administrator of the estate in August 2005.

In December 2005, the chancery court determined it did not have subject matter jurisdiction and the matter was transferred to probate court, which set aside the chancery court's appointment of Monica Edwards as administrator. On January 19, 2006, while the matter was pending without an administrator, Mr. Tanner filed a motion to dismiss the Bureau's petition and unfiled claim against Mrs. Tanner's estate as time-barred under Tennessee Code Annotated § 30-2-310(b). In February 2006, the Bureau filed its response and moved to amend its complaint to allege that it had incurred at least \$248,508 in costs for providing care to Mrs. Tanner. The probate court appointed Mr. Tanner as administrator; granted the Bureau's motion to amend; and dismissed without prejudice Mr. Tanner's motion to dismiss in March 2006. In its March order, the probate court found that it appeared that the only asset Mrs. Tanner had at the time of her death was real property.² The court ordered the publication requirements of the probate clerk to creditors waived.

Ultimately, on July 28, 2006, the Bureau filed a claim against Mrs. Tanner's estate in the amount of \$248,508. In August 2006, Mr. Tanner filed an exception to the claim as time-barred under § 30-2-307(a)(1) and 310(b) where it was filed more than twelve months after Mrs. Tanner's death. The trial court dismissed the claim as time-barred, and the Bureau filed a timely notice of appeal to this Court. We affirm.

Issues Presented

The issues raised for our review, as presented by the Bureau, are:

²In January 2005, Mrs. Tanner's real property had an assessed value of \$123,000.

- (1) Whether the probate court erred by adding additional exceptions or qualifications to the Bureau's right to recover correctly paid benefits.
- (2) Whether the Bureau's recovery of correctly paid benefits is outside the scope of Tennessee Code Annotated § 30-2-307(a)(1) and § 30-2-310(b) limitations.
- (3) Whether the probate court erred when it barred the Bureau's claim under the rationale of *In Re Estate of Luck*.
- (4) Whether Tennessee Code Annotated § 71-5-116(c) and § 30-2-321 are special statutes that control over the general limitations of §§ 30-2-307(a)(1) and 30-3-310(b).

Standard of Review

The issue presented on appeal are matters of statutory construction. Questions of statutory construction are issues of law which we review *de novo*, with no presumption of correctness attached to the determinations of the trial court. *Taylor v. Fezell*, 158 S.W.3d 352, 357 (Tenn. 2005). We likewise review the trial court's application of the law to the facts *de novo*, with no presumption of correctness. *State v. Thacker*, 164 S.W.3d 208, 248 (Tenn. 2005).

Analysis

We begin our analysis with the well-established rules of statutory construction. When interpreting a statute, the court is to "ascertain and give effect to the legislative intent without unduly restricting or expanding a statute's coverage beyond its intended scope." *Hathaway v. First Family Fin. Servs., Inc.*, 1 S.W.3d 634, 640 (Tenn. 1999) (citations omitted). We must ascertain the intent of the legislature from the natural and ordinary meaning of the statutory language and in context of the entire statute, without forcing a construction that would limit or expand its scope. *JJ & TK Corp. v. Bd. of Comm'rs*, 149 S.W.3d 628, 630-31 (Tenn. Ct. App. 2004) (citations omitted). When the language of a statute is clear, we must utilize the plain, accepted meaning of the words used by the legislature to ascertain the statute's purpose and application. If the wording is ambiguous, however, we must look to the entire statutory scheme and at the legislative history to ascertain the legislature's intent and purpose. We must construe statutes in their entirety, assuming that the legislature chose the words of the statute purposely, and that the words chosen "convey some intent and have a meaning and a purpose" when considered within the context of the entire statute. *Eastman Chem. Co. v. Johnson*, 151 S.W.3d 503, 507 (Tenn. 2004) (citations omitted). With these principles in mind, we turn to the Bureau's assertion that its claim is not time-barred despite being undisputedly filed beyond the limitations period.

As an initial matter, we note that, in this case, the Bureau received actual notice of Mrs. Tanner's death before the expiration of the twelve-month limitations period. Therefore, the

dispositive issue raised by this appeal is whether, pursuant to Tennessee Code Annotated § 71-5-116(c), the Bureau, as a State entity, is exempt from the twelve-month limitations period provided by Tennessee Code Annotated §§ 30-2-307(a)(1) and 30-2-310(b). It is not.

We recently addressed questions identical to those raised here in *In Re: Estate of Anderson*, No. M2006-02303-COA-R3-CV, 2007 WL 4116223 (Tenn. Ct. App. Nov. 16, 2007) and *In Re: Estate of Henkel*, No. M2006-02641-COA-R3-CV, 2007 WL 4117791 (Tenn. Ct. App. Nov. 16, 2007). We find it unnecessary to reiterate the analysis provided in those cases. The language of the statutory sections is clear and unambiguous, and nothing in the statutory scheme exempts the Bureau from the limitations period.

Holding

In light of the foregoing, the judgment of the trial court is affirmed. Costs of this appeal are taxed to the Appellant, The Tennessee Bureau of TennCare, and its surety.

DAVID R. FARMER, JUDGE