

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5101-15T4

NEWTON MEDICAL CENTER,

Plaintiff-Respondent,

v.

D.B.,

Defendant-Appellant.

APPROVED FOR PUBLICATION

January 17, 2018

APPELLATE DIVISION

Argued October 26, 2017 – Decided January 17, 2018

Before Judges Simonelli, Haas and Rothstadt.

On appeal from Superior Court of New Jersey,
Law Division, Special Civil Part, Warren
County, Docket No. DC-1810-14.

Richard A. Mastro argued the cause for
appellant (Legal Services of Northwest
Jersey, Inc., attorneys; Richard A. Mastro,
on the briefs).

Anthony J. Iler argued the cause for
respondent (The Law Offices of Richard W.
Krieg, LLC, attorneys; Anthony J. Iler and
John T. Grogan, Jr., of counsel and on the
brief).

The opinion of the court was delivered by

ROTHSTADT, J.A.D.

In this appeal, we are asked to determine whether a patient
who requires emergent psychiatric treatment, resulting in his

involuntary commitment to a hospital, should be treated differently for charity care purposes than a patient who suffers a physical injury or illness. This issue of first impression arises from a dispute regarding a hospital's attempt to recover payment from an indigent mental health patient, who was involuntarily committed to its facility after being screened by a psychiatric emergency screening service (PESS), when the hospital followed the charity care procedures applicable to a non-emergent admission instead of those applicable to an admission through the hospital's emergency room. The trial court determined on summary judgment that the procedures governing a regular admission applied, and the hospital was entitled to recover from the patient based on a theory of quasi-contract. We disagree and reverse.

For the reasons that follow, we hold that when a mental health patient is admitted to a hospital on an emergent basis through the referral of a PESS, the provisions of the charity care regulations dealing with emergency room admissions apply.

The facts giving rise to plaintiff, Newton Medical Center's claim for payment from defendant, D.B.,¹ are undisputed. Defendant, a diagnosed schizophrenic, was involuntarily

¹ We use initials to protect defendant's privacy.

committed to plaintiff's short-term care facility (STCF)² on an emergent basis after he experienced a psychotic episode and the Warren County PESS determined that he was a danger to himself and others. After receiving treatment at plaintiff's STCF from February 19 to February 28, 2013, defendant accumulated a bill of \$6745.50,³ which he did not pay.

Defendant's reported income in 2013 was well below the poverty level, making him eligible for uncompensated care under New Jersey's Charity Care Program, N.J.A.C. 10:52-11.1 to -11.17.⁴ Defendant filled out and signed a charity care application, but was advised that the application could not be

² N.J.S.A. 30:4-27.2(bb) defines an STCF as:

[A]n inpatient, community based mental health treatment facility which provides acute care and assessment services to a person with mental illness whose mental illness causes the person to be dangerous to self or dangerous to others or property. A[n STCF] is so designated by the commissioner and is authorized by the commissioner to serve persons from a specified geographic area.

³ Defendant's actual bill totaled \$65,639.02, but was reduced pursuant to N.J.S.A. 26:2H-12.52 because defendant was uninsured.

⁴ The New Jersey Division of Mental Health Services (DMHS) provides quarterly payments to STCFs throughout the State as a component of the Charity Care Program. See N.J.A.C. 10:52-13.6. The quarterly allocation to plaintiff for 2013 was \$89,766, a total of \$359,064 for the year.

processed because he did not provide all of the requisite documentation. Due to his condition,⁵ defendant failed to provide the documents within the allotted regulatory time period. Plaintiff billed defendant, and subsequently sent four letters demanding payment to defendant's mother's address, where defendant was residing.⁶ After he defaulted, plaintiff filed suit for recovery of the unpaid bill.

Before trial, the parties filed cross-motions for summary judgment. Defendant argued that plaintiff's claim was barred by the payments it received from the DMHS. He contended that the express contract between the State and plaintiff barred plaintiff from recovering from him on a theory of unjust enrichment because plaintiff could not have expected remuneration from defendant. Defendant also asserted that plaintiff could not recover because it failed to follow the charity care application provisions of N.J.A.C. 10:52-11.16, which governs emergency admissions. Plaintiff opposed defendant's motion, arguing that N.J.A.C. 10:52-11.16 was only applicable to patients admitted through the emergency room, and

⁵ Defendant certified that his "schizoaffective disorder" made "it difficult or impossible for [him] to attend to average, every-day tasks[.]"

⁶ In his certification, defendant stated that he was unaware of any demands for payment by plaintiff, and that his mother handled the household mail.

that the provisions governing regular admission were properly followed in defendant's case. In its cross-motion, plaintiff maintained that because the facts were undisputed and defendant presented no valid defenses, it was entitled to judgment as a matter of law.

Upon considering their submissions, the motion judge denied defendant's motion and granted plaintiff's cross-motion. As a threshold matter, the judge found that a quasi-contract existed between plaintiff and defendant, which entitled plaintiff to recover for the services it provided. Relying on the plain meaning of the regulations, the judge rejected defendant's argument that he should be afforded the benefit of the same "stringent" regulations applied to charity care applicants admitted to a hospital through its emergency room for treatment of physical injuries or illnesses. In his written statement of reasons, the judge noted "defendant . . . provided no evidence that he was admitted through an emergency room[,]" which relieved plaintiff of the screening requirements found in N.J.A.C. 10:52-11.16. The judge entered orders on March 10, 2016⁷ denying defendant's motion and granting plaintiff's cross-motion.

⁷ Due to a clerical error, the order denying defendant's motion was incorrectly dated April 10, 2016.

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Defendant moved for reconsideration of the motion judge's grant of summary judgment in favor of plaintiff and denial of his motion for summary judgment. The judge entered an order denying reconsideration on July 6, 2016.⁸ In his written statement of reasons, the judge again explained:

The more stringent emergency room charity care regulations apply only "[i]f a charity care applicant is admitted through the hospital's emergency room." [N.J.A.C.] 10:52-11.16. The plain language of the regulation requires an admission through the hospital's emergency room, in this case [plaintiff's]. It does not apply to [a] transfer from an emergency screening service or even from another hospital's emergency room.

Defendant's appeal from the motion judge's grant of summary judgment and denial of reconsideration followed.⁹

We review a trial court's order granting summary judgment de novo, applying the same standard as the trial court. Conley v. Guerrero, 228 N.J. 339, 346 (2017). That standard commands that summary judgment be entered "if the pleadings, depositions,

(continued)

⁸ The order was incorrectly dated June 6, 2016.

⁹ Defendant does not indicate in his notice of appeal or case information statement (CIS) that he is appealing from the denial of his motion for summary judgment. However, he does indicate in his CIS that he is appealing from the denial of his motion for reconsideration, in which he asked the motion judge to reconsider his denial of summary judgment.

answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." R. 4:46-2(c). When no issue of fact exists, and only a question of law remains, we afford no special deference to the legal determinations of the trial court. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995). Because there is no genuine issue of material fact before us, we review de novo the trial court's conclusion that the provisions of N.J.A.C. 10:52-11.16 did not apply to defendant's situation.

Defendant urges that we should reverse the motion judge's entry of summary judgment in favor of plaintiff because his emergent and involuntary commitment to an STCF, by statute, must be made exclusively through a PESS, which "is the gateway for entry to [an] STCF." He asserts that a PESS "deal[s] with emergencies of a psychiatric nature[,]" while "[e]mergency rooms deal with emergent matters of physical illness." Therefore, defendant contends that admission to an STCF through a PESS is equivalent to an emergency room admission. We agree.

We begin our analysis by recognizing that this case requires us to interpret the charity care regulations. In our review, we are guided by the following principles. "In

interpreting regulations, we take the same approach we do in construing statutes." In re N.J. State Funeral Dirs. Ass'n, 427 N.J. Super. 268, 273 (App. Div. 2012) (citing U.S. Bank, N.A. v. Hough, 210 N.J. 187, 198-99 (2012)). "Determining the intent of the drafter is our paramount goal. Generally, the drafter's intent is found in the actual language of the enactment." Hough, 210 N.J. at 199 (citations omitted). However, "[w]here there is ambiguity, or where a literal reading would lead to an absurd result, a court informs its interpretation with evidence of the meaning the drafter has assigned. In the case of regulations, that intent may be evidenced in the record of the rulemaking process." In re N.J. State Funeral Dirs. Ass'n, 427 N.J. Super. at 274 (citations omitted).¹⁰

Hospitals in the State of New Jersey have a statutory duty to provide care to anyone seeking treatment regardless of their ability to pay. N.J.S.A. 26:2H-18.64. To assist hospitals with

¹⁰ We observe that we, like the motion judge, do not have the benefit of any input from the state agencies involved in promulgating the charity care regulations. See, e.g., Hough, 210 N.J. at 199-200. If provided, we would have "give[n] considerable weight to [their] interpretation of [the] statutory scheme that the legislature . . . entrusted [them] to administer[,]" and would have "defer[red] to [their] interpretation of both [the] statute and implementing regulation, within the sphere of [their] authority, unless the interpretation [was] 'plainly unreasonable.'" In re Election Law Enf't Comm'n Advisory Op. No. 01-2008, 201 N.J. 254, 262 (2010) (citations omitted).

this effort, the Legislature authorized the Department of Human Services,¹¹ in conjunction with the Department of Health and Senior Services (collectively, the Departments), to create the New Jersey Charity Care Program. See N.J.S.A. 30:4D-7. Patients "determined to be eligible for charity care" will not be billed "or be subject to collection procedures [and those] determined to be eligible for reduced charge charity care [will] not be billed or subject to collection procedures for the portion of the bill that is reduced charge charity care." N.J.A.C. 10:52-11.14.

Under the charity care regulatory scheme, a hospital patient "or [a] responsible party may submit a completed application for a hospital to make a determination for charity care or reduced charge charity care at any time up to one year from the date of outpatient service or inpatient discharge."¹² N.J.A.C. 10:52-11.13(b). A hospital then has "two years after the date of patient discharge (inpatient) or date of service (outpatient)" to submit a "clean charity care claim[,]" N.J.A.C.

¹¹ More specifically, the Division of Medical Assistance and Health Services.

¹² "At the hospital's discretion, the hospital may [also] accept a completed application within two years of the date of service (outpatient) or date of discharge (inpatient)." N.J.A.C. 10:52-11.13(b).

10:52-12.1, in order for the claim to be documented and considered in the Department of Health and Senior Service's funding formula. See N.J.A.C. 10:52-13.4.

The charity care regulations relating to a patient's application for financial assistance distinguish between patients admitted to a hospital "through the hospital's emergency room" and all other patient admissions. N.J.A.C. 10:52-11.4; compare N.J.A.C. 10:52-11.16 (providing procedure governing charity care eligible patients admitted to a hospital through the emergency room) with N.J.A.C. 10:52-11.5 to -11.10 (providing procedure governing charity care eligible patients admitted to the hospital through regular admission). For patients admitted through the emergency room, the onus is on the hospital to secure the required information to process the application. N.J.A.C. 10:52-11.16(h) provides:

[T]he hospital shall make the following efforts to determine whether the applicant is eligible for charity care. The hospital shall:

- (1) Make at least two attempts to contact the patient by phone . . . to try to schedule an in-person interview to obtain information relevant to the application. If such an interview can be arranged, the hospital shall obtain the relevant information and process the application based on that information. . . .;

(2) Visit the address given by the applicant, or otherwise obtained, and attempt to verify that the applicant lives there. . . . If the hospital is able to achieve direct contact with the applicant, the hospital shall try to conduct or schedule an in-person interview to obtain information relevant to the application. If such an interview can be arranged, the hospital shall obtain the relevant information and process the application based on that information. . . .; and

(3) Attempt to determine the applicant's income and assets, that shall include observing the nature of the applicant's housing, to determine that there are no indications that the applicant would not likely be eligible for charity care, and obtaining information from persons at the applicant's address or from neighbors regarding the applicant's employment or other means of support. . . .

These procedures are in contrast to those applied to patients admitted to a hospital through regular admission. Those regulations provide that the patient is the one ultimately responsible for completing his or her charity care application and supplying the requisite documentation. See N.J.A.C. 10:52-11.6 (requiring applicants to provide proper identification); N.J.A.C. 10:52-11.7 (requiring applicants to provide "proof of New Jersey residency"); N.J.A.C. 10:52-11.8 to -11.9 (requiring applicants to provide documentation regarding their income);

N.J.A.C. 10:52-11.10 (requiring applicants to provide proof of their assets).

Further, because "[t]he Charity Care Program [is] the payer of last resort," patients are generally not eligible for charity care unless they are ineligible for any other medical assistance programs. See N.J.A.C. 10:52-11.5(k). The regulations concerning regular admissions impose a three-month window for uninsured patients who have made no payments at the time of service to complete a medical assistance application, otherwise the hospital "[m]ay bill the applicant, consistent with the manner applied to other patients[.]"¹³ N.J.A.C. 10:52-11.5(d)(1)(i). No similar obligation or timeframe exists for patients admitted through the emergency room, as the hospital is responsible for "correctly assess[ing] . . . the applicant's eligibility for charity care," which includes "verify[ing] that the applicant is not enrolled in a medical assistance program." See N.J.A.C. 10:52-11.16(b) and (f).

Despite the regulations' distinction between emergency room admissions and regular, planned admissions, the term "emergency

¹³ It is unclear from the record before us whether plaintiff "refer[red] defendant] to the appropriate medical assistance program" as it was required to do, or if defendant "declined to be screened for medical assistance[.]" See N.J.A.C. 10:52-11.5(d). Regardless, our decision today is made on other grounds.

room" is not defined in the regulatory scheme. See N.J.A.C. 10:52-11.1 to -11.17.

The history of the charity care regulations provides insight into the distinction. By distinguishing emergency room admissions from regular admissions, the Departments were concerned with a "patient's medical condition . . . prevent[ing] the hospital from] obtaining even basic eligibility-related information at the time of admission, or at any time [before and after] discharge." 32 N.J.R. 1123(a) (Apr. 3, 2000). According to the Departments, "there are circumstances in which hospitals cannot obtain the required documentation. One such situation . . . involves patients who are admitted through the hospital's emergency room." Ibid. The Departments explicitly stated that "[t]he purpose of the eased documentation requirements is to permit hospitals to establish charity care eligibility in reasonably reliable fashion under difficult circumstances, that is, when a patient is admitted through an emergency room." 32 N.J.R. 2615(a) (July 17, 2000).

The Departments expressed their understanding that patients in emergent situations may have trouble providing the requisite documentation to receive uncompensated care. See *ibid.* They explained:

Documentation requirements are eased . . .
for patients admitted through the emergency

room, in recognition of the fact that it is difficult to document charity care eligibility in such circumstances. In other, less emergent circumstances, patients can and should provide the more stringent documentation required by the existing rules.

[Ibid.]

The Departments also recognized the possibility of an issue "when a patient admitted through one hospital's emergency room is subsequently transferred to, and admitted at, a second hospital. [Therefore, the rules were] amended . . . to permit a hospital admitting such a transferred patient to rely upon the charity care determination of the transferring hospital in these circumstances." Ibid.

Here, because of the absence of a definition of "emergency room," the literal terms of the regulations could be interpreted as requiring defendant to have applied for charity care as a regular admission, despite his need for emergent treatment, just because he was not admitted through an emergency room located in a hospital, and even though his condition prevented him from completing his application within the regulatory time period. However, we do not view the use of the term "emergency room" as imposing a requirement that involuntarily committed mental health patients, who are admitted on an emergent basis through a PESS, must pass through an actual hospital emergency room in

order to trigger N.J.A.C. 10:52-11.16's procedures. Such a reading would be completely contrary to the regulations' clear purpose that individuals in emergent situations should be relieved of the obligation to produce the necessary materials and information and instead be properly screened for charity care eligibility by the hospital.

The entry point for patients involuntarily committed to STCFs is the PESS, rather than the emergency room attached to a hospital. See N.J.A.C. 10:37G-1.2 ("All admissions to [STCFs] must be referred through a designated emergency/screening mental health service."). Notably, in a prior decision, we refused to adopt an interpretation of the involuntary psychiatric commitment law, N.J.S.A. 30:4-27.1 to -27.23, to require PESS units to operate out of the physical location of a hospital or its emergency room. See Warren Hosp. v. Dep't of Human Servs., Div. of Mental Health Servs., 407 N.J. Super. 598, 602, 616 (App. Div. 2009). In Warren Hospital, we recognized that "[a]s the entry point, screening services were intended to provide 'accessible crisis intervention, evaluation and referral services to mentally ill persons in the community' and 'alternatives to inpatient care . . . and when necessary, to provide a means for involuntary commitment.'" Id. at 612 (second alteration in original) (quoting N.J.S.A. 30:4-27.1(d)).

We noted, "screening services and STCFs are designed to 'lessen inappropriate hospitalization and reliance on psychiatric institutions,' and afford the opportunity for treatment in the least restrictive setting." Ibid. (citation omitted).

Regardless of the screening service's location, a patient referred to an STCF by a PESS faces similar emergent circumstances as a patient admitted through the emergency room, as a PESS deals with emergencies of a psychiatric nature. See id. at 614 ("[T]he definition of a '[s]creening service' [is] an 'ambulatory care service' that provides 'mental health assessment, emergency and referral services to persons with mental illness[.]'" (second alteration in original) (quoting N.J.S.A. 30:4-27.2(z)). In both situations, the hospital may be unable to obtain "even basic eligibility-related information" from the patient due to their physical or psychiatric impairment at the time of admission and after discharge. 32 N.J.R. 1123(a).

Consistent with the Departments' intent, we hold that the term "emergency room" within the meaning of the regulations encompass a category of emergent admissions that incorporates emergent transfers to STCFs from a PESS. We recognize that the Departments rejected having the "requirements for patients admitted through the emergency room be extended to patients


admitted under all circumstances" because it wanted "to protect the integrity of the charity care program." 32 N.J.R. 2615(a). However, our interpretation today does not extend to all patients, only those involuntarily committed on an emergent basis after being assessed by an emergency screening service. We do not believe that our reading of the regulations compromises the integrity of the program. Rather, it assures that a whole category of patients, specifically those involuntarily committed due to emergent psychiatric issues, are not excluded from the protections offered by N.J.A.C. 10:52-11.16.

Accordingly, we conclude that consistent with N.J.A.C. 10:52-11.16, plaintiff was required to contact defendant by phone at least twice, and schedule an in-person interview or send a social worker to his address in order to obtain the necessary information to process his charity care application. See N.J.A.C. 10:52-11.16(h). Because plaintiff failed to do so, it is barred from recovering from defendant. See, e.g., Hosp. Ctr. at Orange v. Cook, 177 N.J. Super. 289, 303 (App. Div. 1981)¹⁴; see also N.J.A.C. 10:52-11.14.

¹⁴ In Cook, we considered whether "a medically indigent patient who is sued by a hospital for recovery of its unpaid bill for services may plead as a defense to the action the hospital's noncompliance with its obligations under the Hill-Burton Act [42
(continued)

The judgment of the trial court is reversed and the matter is remanded for the entry of orders granting defendant's motions for summary judgment and reconsideration, denying plaintiff's cross-motion, and dismissing the complaint with prejudice. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


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(continued)

U.S.C. §§ 291-291o-1; see also 42 U.S.C. §§ 300o-300t]." Cook, 177 N.J. Super. at 291. We answered that question in the affirmative, holding that "the effect of the [h]ospital's noncompliance . . . on its right to collect its bill precludes it from so doing." Id. at 303. Although in Cook, we dealt specifically with the plaintiff hospital's noncompliance with the notice procedures in the Hill-Burton Act, we discern no reason not to apply the same logic to the case at hand.