

MEDICAL PROVIDERS WIN: NH SUPREME COURT MAKES IT EASIER TO GET PAID

By: *Nelson Raust, Esquire*
nraust@devinemillimet.com
603.695.8562

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In a recent case, [Southern New Hampshire Medical Center v. Anthony Hayes](#), 2008-44 (N.H. 2-11-2010), the New Hampshire Supreme Court ruled that medical providers can receive payment for medical services from the patient's spouse under the little known legal theory known as the "doctrine of necessities." The facts in the case were as follows. The patient received emergency hospital treatment in 2006 totaling over \$85,000. She did not have health insurance. Her husband claimed that they were no longer living together as husband and wife and, therefore, he should not be held responsible for her medical bills. They were divorced in 2007, after the medical bills were incurred.

Both the trial court and the Supreme Court ruled in favor of the hospital, finding that the patient and her husband were both legally responsible under the doctrine of necessities for the medical expenses that the patient had incurred. The Supreme Court articulated the following legal test for determining whether a medical provider can hold the patient's spouse liable for the patient's medical bills:

... [t]he provider must show that (1) services or goods were provided to the receiving spouse; (2) they were necessary for the health and well-being of the receiving spouse; (3) the person against whom the action is brought was married to the receiving spouse at the time the services or goods were provided; and (4) payment for the necessities has not been made.

The Court held, however, that if a marriage is no longer viable, then the doctrine of necessities would not apply. The Court cited factors that should be considered in determining whether the marriage was viable at the time that the medical bills were incurred; specifically, whether the parties were separated, whether they were living apart, and whether they were sharing their living expenses and debts. The Court made clear that, "[i]f a marriage has broken down to the extent that spouses are no longer sharing assets or debts, it makes little sense to hold a non-debtor spouse liable for the medical expenses of the other." The Court also made clear

Office Locations:

111 Amherst Street
Manchester, NH 03101
T 603.669.1000
F 603.669.8547

300 Brickstone Square
Andover, MA 01810
T 978.475.9100
F 978.470.0618

43 North Main Street
Concord, NH 03301
T 603.226.1000
F 603.226.1001

DEVINEMILLIMET.COM

HEALTHCARE@DEVINEMILLIMET.COM

that the patient's spouse is only liable if the patient is unable to pay for "his or her necessities."

The Court, in reviewing the facts that had been presented in the Southern New Hampshire Medical Center case during the trial, found that a new trial was necessary in order to determine whether the marriage was viable when the medical expenses were incurred. Accordingly, although the Court held in favor of the hospital on the issue of whether the doctrine of necessities was applicable to the case, it required the hospital to present additional facts to demonstrate that the marriage was viable at the time the medical expenses were incurred.

One question that was not decided by the Court was whether the doctrine of necessities applies to nursing home costs. The case dealt specifically with hospital services and discussed the applicability of the doctrine to other medical costs. However, it did not address the issue of whether it applied to nursing home costs. The Court, in its opinion, stated:

We note that, for the purposes of the necessities doctrine, hospitals and other medical providers are uniquely situated and, therefore, uniquely likely to seek the application of this doctrine, as, unlike other creditors, medical providers may not turn away patients who require treatment.

It is often difficult for nursing homes to discharge patients once they are admitted based on the difficult standards for discharge set forth in RSA 151:26 and He-E 802.15. Therefore, arguably, the doctrine of necessities should also apply to nursing home costs.

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111 Amherst Street
Manchester, NH 03101
T 603.669.1000
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Andover, MA 01810
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F 978.470.0618

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T 603.226.1000
F 603.226.1001

