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Client Alert: Embassy Healthcare v. Bell: Supreme Court of Ohio Decision Provides Greater Certainty for a Surviving Spouse on Decedent Spouse's Medical Debt

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Is a surviving spouse responsible for her deceased spouse's medical bills if the creditor did not properly submit a claim against his estate? In *Embassy Healthcare v. Bell*, the Supreme Court of Ohio recently concluded that the answer is no: a creditor (such as a hospital, physician practice, long term care facility, or other health care provider) must present a timely claim for unpaid "necessaries" to the decedent's estate under Ohio Revised Code (O.R.C.) §2117.06 to preserve a claim under the Ohio necessities statute against the surviving spouse.

The Supreme Court of Ohio's holding in *Embassy Healthcare v. Bell* offers greater certainty with respect to when a surviving spouse may be responsible to a creditor for certain types of debt incurred by their deceased spouse.

FACTS

In January 2014, the decedent entered a nursing facility. The admission agreement that he signed provided that the decedent would be responsible for all amounts due and owing to the facility. The decedent's spouse signed as the "Responsible Party," which, under the admission agreement, meant that she was obligated to pay the facility to the extent that she had access to the decedent's assets (not that she was personally liable for the debt).

Decedent died in May 2014. During the six-month period following decedent's death, no estate was opened. The facility failed to have an estate administrator appointed for the purpose of presenting its claim.

Only after the six-month claims presentment period expired did the facility request payment for unpaid medical bills by sending a notice to the decedent's surviving spouse in her capacity as personal representative of the estate. In June 2015, having failed to obtain repayment, the facility filed a complaint against the decedent's surviving spouse in her individual capacity, seeking payment for the unpaid medical bills under Ohio's "necessaries" statute.

ANALYSIS

Ohio's "necessaries" statute, codified at O.R.C. § 3103.03, imposes a duty of support on married individuals requiring that they satisfy their spouse's debts for necessities—food, shelter, and medical services—that their spouse is unable to pay. The Court explained that "[t]he nondebtor spouse becomes liable only if the debtor spouse does not have the assets to pay for his or her necessities."

Here, because the nursing facility had not timely presented its claim against the decedent's estate as required under O.R.C. § 2117.06, the Court held that the creditor (the facility) could not show that the decedent (the debtor spouse) was unable to pay his debt. Consequently, the surviving spouse had no duty to pay the debt under the necessities doctrine, O.R.C. § 3103.03.

CONCLUSION

In Ohio, a surviving spouse is only responsible for a decedent spouse's medical debt, or debt for other "necessaries," when his or her spouse is without the means to satisfy the debt. Primary liability for any unpaid debts remains with the decedent. This case clarifies that creditors must submit timely claims against their debtor's estates—even if they believe the estate to be insolvent—in order to preserve their right to proceed against the decedent's spouse for payment of the debt under the Ohio necessities statute.

For more information about *Embassy Healthcare v. Bell* and its impact on creditors, fiduciaries, or health care providers, please contact your Vorys attorney.