



Holly T. Freiner vs. Secretary of the Executive Office of Health and Human Services

Supreme Judicial Court of Massachusetts
SJC-13514

Presented by:
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Director of Legal Content



Case Facts

- Costa and Mary Tingos were married in 1957 and lived together until 2015 when Costa who was then 82 years old moved into a nursing home.
- Both spouses contributed financially to the marriage and in 2003 they started keeping their income and assets separate.

Case Facts

- They continued to live together and filed their taxes jointly.
- When Costa moved into the nursing home Mary coordinated his care and served as attorney-in-fact under his power of attorney so she could manage his bank account and pay bills on his behalf.

Case Facts

- In 2015, they applied for Medicaid benefits for Costa.
- In his application he stated:

“ For decades my wife and I have kept our income and assets almost entirely separate, although I lived with her in her home and/or apartment and I contributed some expenses such as cable and utilities. Mary is refusing to support me financially or cooperate with my application for benefits or provide information. I hereby assign to MassHealth my rights to obtain spousal refusal.”

Case Facts

- In the application, Costa disclosed certain financial information including their joint tax returns but did not provide additional requested information regarding Mary's income and assets.
- In December 2015, MassHealth issued a denial which stated – You did not give MassHealth the information it needs to decide your eligibility within the required time frame.

Case Facts

- Costa appealed the decision to the board and was denied an administrative appeal because he did not demonstrate by a preponderance of evidence that his spouse will not cooperate.
- He appealed that decision for judicial review and the court vacated the agency's decision in February 2018 and remanded it back to the board.

Case Facts

- During the second hearing, Costa testified that his attorney had asked Mary for the information and she refused to provide the requested information.
- Mary submitted an affidavit that stated:

“I refuse to cooperate with my husband with his application for MassHealth long-term care benefits and I will not provide him with any information regarding my income, assets and other financial information.”

Case Facts

- The board again denied his appeal concluding that the applicant has a duty to make reasonable efforts to access his spouse's income and assets and Costa has not demonstrated that he has made any such efforts.
- He again sought judicial review of that decision and it was once again vacated because he had not received sufficient notice that he would be required to demonstrate specific efforts to access Mary's financial information.

Case Facts

- In March 2020, the board affirmed the denial again stating that the record suggests a long term and ongoing level of cooperation between the couple and he had not fulfilled his duty to cooperate with MassHealth.
- The board also stated that Mary's other actions, both past and present belie the notion that she is a noncooperating spouse.

Case Facts

- In February 2022, a judge affirmed the board's decision.
- The Supreme Judicial Court took up the case on its own motion.

Holding

- The court reviews the purpose of Medicaid and how the community spouse's assets are considered for eligibility.
- They review the history of the Medicare Catastrophic Coverage Act of 1988 or MCCA whose purpose is protecting the community spouse from forced pauperization and to eliminate loopholes that allow well-resourced couples to hoard their assets away.

Holding

- MCCA imposes two requirements on state Medicaid agencies.
- First, an agency must calculate the total value of the couple's resources regardless of whether those resources are jointly owned or owned by one spouse in that spouse's sole name.
- Second, the agency must determine the Community Spouse Resource Allowance (CSRA).

Holding

- MCCA also allows applicants whose assets exceed the CSRA to qualify for benefits if the institutionalized spouse has assigned to the state any rights to support from the community spouse per 42 USC 1396r-5(c)(3).
- In addition, the assignment allows the state agency to seek reimbursement of its costs from the community spouse.

Holding

- Importantly, the provision applies only where the couple's total combined resources are disclosed because it permits the agency to determine whether seeking to pursue its assigned rights is worthwhile.

Holding

- The federal rule does not state what to do in the situation where the community spouse's information is not available but Massachusetts has a regulation that states:

“An institutionalized spouse, whose community spouse **refuses to cooperate or whose whereabouts is unknown** will not be ineligible due to the inability to provide information concerning the assets of the community spouse when the institutionalized spouse assigns to the MassHealth agency any right to support from the community spouse. “ (my bold)

Holding

- Thus, the institutionalized spouse can qualify for benefits where the community spouse “refuses to cooperate” or the community spouse’s whereabouts are unknown and rights are assigned to MassHealth to seek spousal support.

Holding

- Costa argues that Mary refused to cooperate by not providing financial information.
- MassHealth argues that the couple has a long-term and ongoing practice of cooperating and her isolated act of refusing to provide the financial information does not satisfy the regulation's requirement.

Holding

- The court then interprets the language of the regulation's term "refuses to cooperate".
- Words and phrases used in a statute should be construed by reference to their associated terms in the statutory context.
- Here the phrase "refuses to cooperate" is followed immediately by the phrase "or whose whereabouts is unknown".

Holding

- Including such an isolated refusal to cooperate alongside the sweeping inability to even to locate the community spouse makes little sense.
- The purpose of the Medicaid program, as well as the aim of the MCCA, further bolsters MassHealth and the board's construction of the regulation.
- Following Costa's construction would allow couples to use the preexisting loophole to shelter resources from eligibility calculus simply by placing the resources in the community spouse's sole name and undermine the goal of MCCA to close this loophole.

Holding

- The Court holds that the agency was reasonable in denying Costa's application taking all of Mary's actions into account, living together over 50 years, she continued to care for him, filed taxes jointly and she managed his bank account after he moved to the nursing home.

Holding

- The board was reasonable to conclude that such selective noncooperation within the context of otherwise extensive collaboration in other aspects of the marital relationship was insufficient to constitute the type of refusal to cooperate required by the state's regulation.

Holding

- The Court also denied Costa's due process argument stating that the circuitous route of the case does not render it invalid.



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