

## Court Supports Eviction of Nursing Home Resident During Medicaid Appeal

*Court determines that nursing home may evict an elderly resident due to unpaid balance owed regardless of pending Medicaid appeal.*

**King v. Butler Rest Home, Inc. (Ky. Ct. App., No. 2010-CA-001467-MR, June 17, 2011).**

**Facts.** In June of 2009, nursing home resident Geneva King applied for Medicaid benefits and immediately ceased making private payments to her nursing home. Upon review of her application, Medicaid denied Ms. King's application for benefits and Ms. King reapplied. Medicaid again denied the application. During the entire application process, Ms. King accrued an outstanding balance of \$41,683 due to the nursing home. Upon learning of the second denial of Medicaid benefits, the nursing home notified Ms. King that she would be discharged from the home to her daughter's residence in one month for nonpayment.

Ms. King appealed her involuntary discharge from the nursing home to the state's Medicaid agency. An administrative law judge ("ALJ") agreed with the nursing home's position and allowed the discharge. Ms. King then appealed the decision in court, requesting an injunction in order to prevent the home from forcing her to leave before Medicaid made a decision regarding her pending appeal of the second benefit denial.

**Court's Decision.** Initially, the court granted Ms. King a temporary injunction against the nursing home, but then dissolved the injunction and upheld the decision of the ALJ. Again, Ms. King appealed, arguing that state Medicaid regulations and the Centers for Medicare and Medicaid Services' State Operations Manual prohibited the nursing home from discharging her prior to her receiving a final decision from Medicaid on her appeal of the denial of benefits.

The Court of Appeals of Kentucky affirmed the ALJ's decision and upheld the involuntary discharge of Ms. King from the nursing home for nonpayment. While the nursing home did allow Ms. King to continue to live at the home during two applications and two denials, while accruing a bill of over \$40,000, the appeals court found no requirement in the Medicaid regulations or the Manual that the Medicaid appeals process must be completely exhausted for a benefits claim to be considered "denied."

Notice- This information is not legal advice or counsel absent an extant attorney-client relationship with the recipient; this information does not create an attorney-client relationship. Seek legal counsel before taking any action on the matters referenced above.