

DA 25-0240

IN THE SUPREME COURT OF THE STATE OF MONTANA

2025 MT 276

MONTANA DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES,

Petitioner and Appellant,

v.

MINTA Y. JOHNSON,

Respondent and Appellee.

APPEAL FROM: District Court of the Fourth Judicial District,
In and For the County of Missoula, Cause No. DV-24-399
Honorable John W. Larson, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Gregory Henderson, Staff Attorney, Montana Department of Health
and Human Services, Missoula, Montana

For Appellee:

Brian C. Tanko, Tanko Law Office, Kalispell, Montana

Submitted on Briefs: October 15, 2025

Decided: December 2, 2025

Filed:


Clerk

Justice Laurie McKinnon delivered the Opinion of the Court.

¶1 The Montana Department of Public Health and Human Services (Department) appeals the March 3, 2025 order entered in the Fourth Judicial District Court, Missoula County, which granted summary judgment to Minta Johnson (Johnson) and dismissed the case with prejudice (Order). The Order concluded that the Department's claim was barred by issue preclusion because the Department had previously submitted an untimely creditor's claim under § 72-3-803, MCA, which was denied. Johnson is the sole heir to Florence Pound (Pound) who received Medicaid benefits in the amount of \$5,360.89, which the Department sought to recoup. The Order dismissed with prejudice the Department's claim. We reverse and remand for judgment in favor of the Department.

¶2 We restate the following issues on appeal:

1. *Whether the Department is precluded from filing an action against Johnson pursuant to § 53-6-167(2), MCA, concerning recovery of Medicaid benefits after death, following the denial of the Department's untimely creditor's claim.*
2. *Whether the Department's claim for Medicaid benefits is barred by issue preclusion when the Department's notice of creditor's claim was rejected as untimely in the original probate matter of the decedent.*

FACTUAL AND PROCEDURAL BACKGROUND

¶3 Johnson is the daughter and sole heir of Pound, who died intestate on April 4, 2023, at the age of 77. During her lifetime, Pound received Montana Medicaid benefits paid by the Department in the sum of \$5,360.89 when she was 55 years or older. At the time of her death, the approximate value of Pound's home, considering the mortgage, was \$200,000. On May 1, 2023, Johnson filed an application for an informal probate of

Pound's estate in the Eleventh Judicial District Court, Flathead County. Pursuant to § 72-3-801, MCA, and as personal representative of Pound's estate, Johnson published a Notice to Creditors on May 12, May 19, and May 26, 2023, in the Daily Interlake, a newspaper of general circulation for the Eleventh Judicial District. The Department presented its Notice of a Creditor's Claim to Johnson on September 13, 2023, one day after the four-month period for creditors to timely file claims against the estate had expired. On March 28, 2024, the Probate Court of the Eleventh Judicial District (Probate Court) issued an order denying the Department's claim against the estate for Medicaid benefits paid on behalf of Pound. On April 30, 2024, the Probate Court approved Johnson's final accounting, distributing the remainder of the estate to Johnson and noting that it had denied the Department's Petition for Allowance. The sole asset of Pound's estate was her home in Flathead County, which the estate sold and distributed the net proceeds of approximately \$200,000 to Johnson as the sole heir to the estate.

¶4 The Department then filed a complaint in the Fourth Judicial District Court (District Court) against Johnson on May 1, 2024, to recover the Medicaid benefits paid on behalf of Pound based on § 53-6-167(2), MCA, which provides that the Department "may execute and present a claim against a person who has received property of the [Medicaid] recipient by distribution or survival." On summary judgment, the District Court dismissed the complaint with prejudice in its Order, concluding that § 72-3-803, MCA, barred the Department's claim because the Department failed to timely present a Notice of Creditor's Claim in the probate matter of Pound's estate. The District Court further reasoned that

issue preclusion bars the Department's claim against Johnson since the issues in the proceeding before the District Court were identical to that in the Probate Court and that Johnson was in privity with the decedent. The Department timely appealed the Order.

¶5 The Montana Medicaid program is a benefit program jointly funded by state and federal funds and administered in accordance with Title XIX of the Social Security Act. The Montana Medicaid program provides necessary medical services to eligible persons to protect persons who are most vulnerable and most in need. The Department is responsible for administering the Montana Medicaid program. The Department has a statutory duty to recover Montana Medicaid benefits correctly paid to a recipient after the recipient's death as a mechanism to help ensure the program remains adequately funded.

STANDARD OF REVIEW

¶6 This Court reviews an order on summary judgment de novo and applies the same standard under M. R. Civ. P. 56(c) as the district court. *Pennell v. Nationstar Mortg., LLC*, 2022 MT 235, ¶ 7, 410 Mont. 526, 520 P.3d 796; *Denturist Ass'n of Mont. v. State*, 2016 MT 119, ¶ 7, 383 Mont. 391, 372 P.3d 466. Summary judgment is proper where there is no genuine dispute between the parties as to the material facts, and the movant is entitled to judgment as a matter of law. *Pennell*, ¶ 7; *Denturist Ass'n of Mont.*, ¶ 7.

¶7 We review conclusions of law, including whether issue preclusion applies, for correctness. *Denturist Ass'n of Mont.*, ¶ 8; *Baltrusch v. Baltrusch*, 2006 MT 51, ¶ 11, 331 Mont. 281, 130 P.3d 1267.

DISCUSSION

¶8 *1. Whether the Department is precluded from filing an action against Johnson pursuant to § 53-6-167(2), MCA, concerning recovery of Medicaid benefits after death, following the denial of the Department's untimely creditor's claim.*

¶9 This matter is before the Court following the parties' cross-motions for summary judgment and there are no material facts in dispute. Johnson argues that to permit the Department to sue the heirs of a Montana Medicaid recipient after it failed to timely file a creditor's claim notice in the original probate proceeding would negate procedural safeguards in the Montana Uniform Probate Code that bar untimely claims against an estate. The Department responds that the plain language of § 53-6-167, MCA, provides that the Department may file a creditor's claim in a probate proceeding or present a claim against an heir of a deceased Montana Medicaid recipient, or both, until the claim is satisfied in full. The Department explains that an alternative path to recover funds correctly paid to a deceased Medicaid recipient is a critical public policy to help ensure that the Department can continue to administer the health benefit program.

¶10 The role of the Court when interpreting a statute "is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted. Where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all." *Pennell*, ¶ 10 (quoting § 1-2-101, MCA). "[O]ur objective is to implement the objectives the legislature sought to achieve." *Pennell*, ¶ 10 (quoting *Mont. Vending, Inc. v. Coca-Cola Bottling Co.*, 2003 MT 282, ¶ 21, 318 Mont. 1, 78 P.3d 499. Where we can determine the intent of the

Legislature from the plain language of the statute, the plain meaning controls, and we need not employ other means of interpretation. *Pennell*, ¶ 10 (citing *Mont. Vending, Inc.*, ¶ 21).

¶11 The interpretation of a statute “should not lead to absurd results if a reasonable interpretation can avoid it.” *Mont. Shooting Sports Ass’n, Inc. v. State*, 2008 MT 190, ¶ 11, 344 Mont. 1, 185 P.3d 1003. Courts must harmonize statutes touching on the same subject, as much as possible, and give effect to each. *Mont. Shooting Sports Ass’n, Inc.*, ¶ 11. We presume that the Legislature does not pass meaningless or useless legislation. *Mont. Shooting Sports Ass’n, Inc.*, ¶ 15.

¶12 Here, the statute at issue, § 53-6-167, MCA, provides three relevant subsections. Because subsection 6 refers to both subsections 1 and 2, we begin our analysis there. Subsection 6 provides:

The department may seek recovery under subsection (1) *or* (2), *or both*, with respect to a deceased recipient *until its claim is satisfied in full*. Upon full satisfaction of its claim, the department may not seek further recovery and shall provide appropriate releases to the deceased recipient’s estate and to other affected persons.

(emphasis added). Johnson minimizes the effect of “or,” “or both,” and “until its claim is satisfied in full” in this subsection and argues that a disjunctive interpretation of “or” would be incongruous with the statutory limitation periods imposed by the Montana Uniform Probate Code. However, to interpret subsection 6 as providing only one path for recovery of Medicaid benefits, either under subsection 1 or subsection 2, would be to ignore the plain language within the statute. Because the statute provides alternative paths for the Department to recover Medicaid payments “until its claim is satisfied in full,” such plain

language demonstrates a clear legislative intent to provide the Department with the ability to replenish its funds with the assets that a Medicaid recipient owned at the time of their death after receiving Medicaid benefits during their lifetime.

¶13 Johnson argues that the use of the mandatory “shall” in subsection 1 means that the Department has only one opportunity to recover Medicaid benefits it paid if it misses its deadline to present a creditor’s claim against the estate of a deceased recipient. Section 53-6-167(1), MCA, provides that:

after the death of a recipient, the department *shall* execute and present a claim against the recipient’s estate, within the time specified in the published notice to creditors in the estate proceeding, for the total amount of recoverable medical assistance paid to or on behalf of the recipient. The department is not required to initiate probate proceedings in order to present a claim in a case in which no proceeding has been commenced to probate the estate of the deceased recipient.

(emphasis added). We agree that “shall” in this instance is mandatory and the Department has a duty to timely present its creditor’s claim against an estate of a Medicaid recipient. *See State v. Knowles*, 2025 MT 107, ¶ 21, 422 Mont. 70, 569 P.3d 184 (quoting *State v. Kortan*, 2022 MT 204, ¶ 21, 410 Mont. 336, 518 P.3d 1283; “[b]oth ‘shall’ and ‘must’ are mandatory, rather than permissive”). However, the Department reasons that it is plausible that the Department may be prevented from timely presenting a claim against an estate of a Medicaid recipient for all services received by the recipient within the four-month period under § 72-3-803, MCA, because medical providers have one year after the date that the Medicaid services were provided to submit a claim to the Department. *See Admin R. M. 37.85.406(1)* (2018). The record before us, on summary judgment, does not reveal the

reason why the Department did not timely present its claim to Pound's estate; however, whatever the reason for this lapse is not relevant to the issues on appeal.

¶14 Subsection 2 provides an alternative path to subsection 1 to recover Medicaid payments:

after the death of a recipient, the department may execute and present a claim against a person who has received property of the recipient by distribution or survival for an amount equal to the recoverable medical assistance paid on behalf of the recipient or the value of the property received by the person from the recipient by distribution or survival, whichever is less . . . *The department may bring an action in district court to collect upon a claim under this subsection (2).*

(emphasis added). Furthermore, the “property of a deceased recipient received by distribution or survival” is later defined as:

any real or personal property or other assets in which the recipient had any right, title, or interest immediately prior to the time of death, including but not limited to assets passing to one or more survivors, heirs, assignees, or beneficiaries of the deceased through joint tenancy, tenancy in common, right of survivorship, conveyance by the recipient subject to life estate, living trust, or other arrangement.

Section 53-6-167(5)(a), MCA. Clearly, the Legislature intended to give the Department wide latitude in its recovery of Medicaid payments to match the myriad ways assets can pass from a decedent to a survivor, heir, assignee, or beneficiary. Relevant here, “property received by distribution” includes but is not limited to “property from a deceased recipient's estate distributed through a probated estate” which is exactly how Johnson received the \$5,360.89 that the Department claims it is owed. Section 53-6-167(5)(b)(i), MCA. Johnson's proffered interpretation ignores the express cause of action in a district court created by subsection 2 and would render the above statutory definitions meaningless

because they only operate once property has passed through a probated estate or some other arrangement to a survivor, heir, assignee, or beneficiary of a Medicaid recipient. Section 53-6-167, MCA, creates a clear distinction, and two separate claims, between a claim against the estate of a Medicaid recipient and a claim against a person who received “property from a deceased recipient’s estate.”

¶15 The Department directs this Court to an Opinion by the Nevada Supreme Court where it elucidated the public policy reasons for why the Department should have alternative forms of recovery for Medicaid payments made to a deceased recipient. In *State Dep’t of Human Res., Welfare Div. v. Est. of Ullmer*, the Nevada Supreme Court explained:

First, the government has a legitimate statutory interest in recovering the amount of correctly paid Medicaid benefits from a deceased Medicaid recipient’s estate, which includes the recipient’s ownership interest in property at the time of death. This interest arises from federal legislation mandating that states establish an estate recovery program in order to receive federal Medicaid funding. Estate recovery provisions were initiated in light of increased demands for Medicaid, which stemmed from the growth of the nation’s aging population. Congress was concerned with projections indicating that Medicaid funding will be insufficient to meet claims within the next thirty years. The federal statutes not only condition the states’ receipt of Medicaid funding on efforts seeking recovery from a deceased recipient’s probate estate, but they also permit states to expand the definition of “estate” to include property held in joint tenancy and various other ownership interests at the time of death.

87 P.3d 1045, 1049 (Nev. 2004) (footnote citations omitted). The Nevada Supreme Court further explained that Nevada’s “recovery statute furthers the government’s legitimate interest in recovering from a deceased Medicaid recipient’s estate so that the government can help more people in need of assistance, the amount of benefits correctly paid.” *Est. of Ullmer*, at 1050. Similarly, § 53-6-167, MCA, provides an alternative cause of action

against an heir who inherited assets from a Medicaid recipient, in addition to a claim against the estate, providing the Department with greater flexibility to recover its Medicaid payments and help ensure that the Montana Medicaid program remains fiscally sound and continues to help people in need of assistance. Johnson’s argument that the Department’s reading of § 53-6-167, MCA, negates the procedural safeguards protecting an estate from untimely claims fails to appreciate the distinction between a claim against an estate of a deceased Medicaid recipient and a claim against a person who received “property from a deceased recipient’s estate.” A person who the Department alleges received property from a deceased Medicaid recipient’s estate is still protected by due process. The Department must prove that the deceased recipient received “recoverable medical assistance,” § 53-6-165(4)(a), MCA, and that the person actually received assets from a deceased recipient. Section 53-6-167(2), MCA.

¶16 The separate cause of action provided for under § 53-6-167(2), MCA, permits the Department to seek recovery of Medicaid benefits correctly paid to a deceased recipient from that recipient’s heirs and is an important public policy tool enacted by the Legislature to provide the Department with flexibility to recover the costs of the Montana Medicaid program. Medical service providers who receive Medicaid payments have one year to present a claim to the Department. Thus, in some situations, the four-month claims limitation period against a creditor in § 72-3-803, MCA, is incompatible with the Department’s statutory duty to recover Medicaid payments correctly paid to a deceased recipient. To interpret the four-month statutory period for presenting claims against an

estate in § 72-3-803, MCA, as a bar against recovery under § 53-6-167(2), MCA, would defeat the plain language and substance of § 53-6-167, MCA, as a whole and would hinder the Department's ability to fulfill its statutory duty to recover Medicaid payments correctly paid to a deceased recipient. Accordingly, the District Court erred when it concluded that the four-month limitation of claims in § 72-3-803, MCA, barred the Department from seeking to recover Medicaid benefits under § 53-6-167(2), MCA, when it did not timely present its creditor's claim to Pound's estate.

¶17 2. *Whether the Department's claim for Medicaid benefits is barred by issue preclusion when the Department's notice of creditor's claim was rejected as untimely in the original probate matter of the decedent.*

¶18 “Collateral estoppel, or issue preclusion, bars a party to a prior lawsuit, or a party in privity with the earlier party, from re-litigating an issue which was decided in the prior suit.” *In re Raymond W. George Trust*, 1999 MT 223, ¶ 42, 296 Mont. 56, 986 P.2d 427 (citations omitted). Issue preclusion and the doctrine of claim preclusion “prevent parties from waging piecemeal, collateral attacks on judgments, thereby upholding the judicial policy that favors a definite end to litigation,” conserve judicial economy, and discourage inconsistent judgments. *Denturist Ass'n of Mont.*, ¶ 10 (citing *Baltrusch*, ¶ 15). Issue preclusion contains four elements:

- (1) the prior adjudication decided the identical issue raised in the present adjudication;
- (2) the prior adjudication resulted in a final judgment on the merits;
- (3) the party against whom issue preclusion is now asserted was a party or in privity with a party of the prior adjudication; and
- (4) the party against whom issue preclusion is now asserted must have been granted a full and fair opportunity to litigate all issues which may now be barred.

Denturist Ass'n of Mont., ¶ 12 (citing *Baltrusch*, ¶ 18). When determining whether the issues decided in the prior adjudication are identical to the present adjudication, “we compare the pleadings, evidence and circumstances surrounding the two actions.” *Baltrusch*, ¶ 25 (quoting *Holtman v. 4-G's Plumbing & Heating, Inc.*, 264 Mont. 432, 439, 872 P.2d 318, 322 (1994)). The analysis of whether the issues are identical is substantive and not merely determined by a rote comparison of the “elements of a cause of action; rather, the bar extends to all questions essential to the judgment and actively determined by a prior valid judgment.” *Baltrusch*, ¶ 25 (quoting *Haines Pipeline Const., Inc. v. Mont. Power Co.*, 265 Mont. 282, 288, 876 P.2d 632, 636; quotations omitted). Where a party presents a novel legal theory or factual allegation in the present action that is related to the subject-matter and relevant to the issues previously litigated and adjudicated and that should have been raised in the prior adjudication, the prior valid judgment is conclusive notwithstanding a party’s failure to raise the issue in the prior proceeding. *Baltrusch*, ¶ 25 (citation omitted).

¶19 Relevant here, “[a] district court sitting in probate has only the special limited powers expressly conferred by statute; the court may not hear or determine any matters other than those under the statute or which are necessary to exercise those powers.” *In re Est. of Cooney*, 2019 MT 293, ¶ 7, 398 Mont. 166, 454 P.3d 1190 (citations omitted). Administration of an estate through a probate proceeding is “neither an action at law nor a suit in equity[;] it is a special proceeding.” *Est. of Cooney*, ¶ 7 (quoting *State ex rel. Reid v. Fifth Jud. Dist. Court*, 126 Mont. 586, 591, 256 P.2d 546, 549 (1953)). A district court

sitting in probate lacks “jurisdiction to consider matters equitable in nature.” *Est. of Cooney*, ¶ 7 (citation omitted).

¶20 Johnson argues that the issue in the prior adjudication and the current proceeding is identical because both concern the administration of a creditor’s claim in probate. Johnson also argues that because she was the sole heir of Pound, she is in privity to the parties in the probate matter. The Department, on the other hand, argues that the issue in the probate matter was the timeliness of the creditor’s claim while, in contrast, the issue in the present appeal is application of § 53-6-167(2), MCA. The Department maintains that as a court of limited jurisdiction the probate court lacked jurisdiction to adjudicate its claim under § 53-6-167(2), MCA. Additionally, the Department contends that because Johnson acted in her fiduciary capacity as personal representative of Pound’s estate in the probate matter and now appears in her individual capacity, that she is not in privity with the party in the prior adjudication. We agree with the Department that the Probate Court sitting in probate lacked jurisdiction to consider the Department’s claim under § 53-6-167(2), MCA, and that the issues in the prior adjudication are not identical to the issues in the present adjudication. We therefore need not determine whether a personal representative, who has a fiduciary duty to the estate and is also the sole heir of an intestate decedent, is in privity when she acted in her personal capacity regarding assets she inherited from a Medicaid recipient.

¶21 Here, the probate court properly denied the Department’s creditor’s claim against Pound’s estate as untimely. The Probate Court lacked jurisdiction to consider the Department’s equitable claim under § 53-6-167(2), MCA; it could only consider timely

presented creditors' claims against the estate and administer those claims according to its statutorily defined powers. As a practical matter, it is unclear how a probate court could even consider the Department's claim under § 53-6-167(2), MCA, because Johnson could not become "a person who has received property of the recipient by distribution or survival for an amount equal to the recoverable medical assistance paid on behalf of the recipient" until the probate court approved Johnson's final accounting and distribution of Pound's estate. Section 53-6-167(2), MCA. The issue now is whether Johnson is "a person who has received property of the recipient by distribution or survival for an amount equal to the recoverable medical assistance paid on behalf of the recipient." Section 53-6-167(2), MCA. Pursuant to Title 53, Chapter 6, Part 1 "recoverable medical assistance" means:

a payment made for items or services provided to and insurance premiums, deductibles, and coinsurance paid on behalf of a recipient who: . . . was at least 55 years of age or younger if allowed by 42 U.S.C. 1396p, as may be amended, when the item or service was provided or when the insurance premium, deductible, or coinsurance was paid.

Section 53-6-165(4)(ii), MCA.

¶22 Here, Johnson has never objected to the actual expenses incurred and charged to Pound for Medicaid benefits paid to her during her lifetime. Since Pound received these Medicaid benefits when she was 55 years or older, those payments are "recoverable medical assistance." Johnson was distributed approximately \$200,000 from Pound's estate, substantially more than the \$5,360.89 Pound received in recoverable medical assistance from the Montana Medicaid program. Pursuant to § 53-6-167(2), MCA, the Department had a valid claim in the District Court against Johnson for recoverable medical

assistance paid to Pound in the amount of \$5,360.89. Because Johnson does not contest the underlying merits of the Department's claim under § 53-6-167(2), MCA, she is precluded from doing so in the District Court. Accordingly, we remand this matter to the District Court to enter a judgment in the Department's favor for the amount of recoverable medical assistance that Johnson received by distribution from Pound's estate.

CONCLUSION

¶23 The Department has a statutory duty to recover Medicaid benefits paid to a deceased recipient. As a matter of public policy, the Legislature created an alternative vehicle to assist the Department in recouping recoverable medical assistance from “a person who has received property of the recipient by distribution or survival for an amount equal to the recoverable medical assistance paid on behalf of the recipient.” The District Court erred in concluding that § 72-3-803, MCA, barred the Department's claim when it did not timely present its creditor's claim to the Probate Court and that issue preclusion prevented the Department from recovering Medicaid payments paid on behalf of Pound. Accordingly, the District Court's Order is reversed, and we remand with instruction to enter a judgment in the Department's favor.

/S/ LAURIE McKINNON

We Concur:

/S/ CORY J. SWANSON

/S/ KATHERINE M. BIDEGARAY

/S/ BETH BAKER

/S/ JIM RICE