

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

IN THE ESTATE OF JOANNA STRAYER, DECEASED, RONALD DECLUE AS
PERSONAL REPRESENTATIVE OF THE ESTATE OF JOANNA STRAYER,

Respondent

v.

STATE OF MISSOURI, DEPARTMENT OF SOCIAL SERVICES.

Appellant

DOCKET NUMBER WD72707

DATE: April 19, 2011

Appeal From:

Circuit Court of Miller County, MO
The Honorable Kenneth L. Oswald, Judge

Appellate Judges:

Division Three
Cynthia L. Martin, P.J., James Edward Welsh, and Gary D. Witt, JJ.

Attorneys:

Megan K. Fewell, Jefferson City, MO

Counsel for Appellant,

Attorneys:

Robert J. Seek, Eldon, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**IN THE ESTATE OF JOANNA STRAYER, DECEASED, RONALD DECLUE AS
PERSONAL REPRESENTATIVE OF THE ESTATE OF JOANNA STRAYER,
Respondent, v. STATE OF MISSOURI, DEPARTMENT OF SOCIAL SERVICES,
Appellant**

WD72707

Miller County

Before Division Three Judges: Martin, P.J., Welsh, and Witt, JJ.

The State of Missouri, Department of Social Services, MO HealthNet Division ("State") appeals the circuit court's judgment denying its claim against the estate of Joanna Strayer ("Estate") for reimbursement of Medicaid assistance funds that the State allegedly expended on Strayer's behalf. On appeal, the State contends that MO HealthNet's computerized records, standing alone, constituted sufficient evidence to entitle it to recover on its claim.

AFFIRMED.

Division Three holds:

The circuit court did not err in finding that the State failed to prove that Ann Strayer, whose Medicaid benefits were the subject of the State's computerized records, was the same person as Joanna Strayer, the decedent. The Estate did not stipulate that Joanna Strayer was Ann Strayer, and the State presented no evidence to support its assertion that they were the same person.

Assuming, for the sake of argument, that the computerized records did refer to Joanna Strayer, the circuit court did not err in denying the State's claim for reimbursement. The State bore the burden of proof, and it was the court's prerogative to believe or disbelieve the State's uncontradicted evidence. The court's findings indicate that it did not believe that the "random numbers" set forth in the computerized records represented the amount of Medicaid benefits expended on Strayer's behalf.

Even if the circuit court had found the records probative, they were insufficient, by themselves, to entitle the State to recover under section 473.398.4, RSMo Cum. Supp. 2010. The plain language of section 473.398.4 says that, to prove moneys expended on a decedent's behalf, a claimant may present computerized records showing a request for payment and a certified statement showing payment was made. A claimant may also present other forms of evidence, such as testimony or other documents, which provide this information. *See id.* The State's computerized records--without testimony as to the meaning of the data contained therein or other evidence certifying that payment was made on Strayer's behalf--did not constitute competent and substantial evidence of payment.

Opinion by James Edward Welsh, Judge

April 19, 2011

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