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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A09-1169**

Dorothy A. Rodriguez, by her guardian, Lisa Rodriguez,  
Appellant,

UCare Minnesota, intervenor,  
Respondent,

vs.

Edward Southern, et al.,  
Defendants.

**Filed March 9, 2010  
Affirmed  
Connolly, Judge**

Faribault County District Court  
File No. 22-CV-08-183

William E. Jepsen, James S. Ballentine, Schwebel, Goetz & Sieben, P.A., Minneapolis,  
Minnesota (for appellant)

W. Paul Otten, Law Offices of Otten & Seymour, Burnsville, Minnesota (for respondent)

Considered and decided by Hudson, Presiding Judge; Connolly, Judge; and  
Crippen, Judge.\*

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to  
Minn. Const. art. VI, § 10.

## **UNPUBLISHED OPINION**

**CONNOLLY**, Judge

Appellant, a medical-assistance recipient, challenges the district court's judgment in favor of respondent, a medical-assistance provider, which awarded respondent the entire value of its claim for medical expenses from appellant's settlement with the defendants. Appellant argues that the district court erred in failing to apportion the settlement proceeds to determine how much of respondent's claim for medical expenses should be reimbursed from appellant's settlement. Because the district court did not err in concluding that respondent's claim was not subject to apportionment, we affirm.

### **FACTS**

Appellant Dorothy A. Rodriguez underwent cervical-fusion surgery in 2007. She developed serious complications and sued her surgeon and the medical clinic where the surgery took place (defendants). Following appellant's surgery, respondent UCare Minnesota (UCare) provided appellant with \$229,000 in medical assistance. However, UCare was not initially joined as a party.

In May 2008, appellant and the defendants settled. The settlement agreement purports to globally settle all claims against the defendants, and appellant specifically agreed to indemnify the defendants against a possible claim by UCare. The district court approved the settlement, but ordered that \$229,000 be held in an interest-bearing trust account pending resolution of the amount to which UCare was entitled on its claim for reimbursement of medical expenses it paid on appellant's behalf.

In August, UCare moved to intervene for immediate disbursement of the \$229,000. The district court subsequently issued an order joining UCare as an intervenor pursuant to Minn. R. Civ. P. 24.01 and 24.03. At a hearing in January 2009, appellant and UCare agreed to dismiss the defendants, which obviated the need for UCare to prove the defendants' liability. After hearing arguments, the district court issued an order and memorandum concluding that UCare's claim for reimbursement of its \$229,000 in medical-assistance payments was not subject to apportionment and that UCare was entitled to the entire sum, plus \$2,624.48 in interest and costs, as a matter of law. This appeal follows.

### **DECISION**

This case involves the interpretation and application of caselaw and statutes, which we review de novo. *Collins v. Minn. Sch. of Bus., Inc.*, 655 N.W.2d 320, 329 (Minn. 2003) (caselaw); *Martin v. City of Rochester*, 642 N.W.2d 1, 9 (Minn. 2002) (statutes). We review a district court's findings of fact for clear error. Minn. R. Civ. P. 52.01.

Appellant argues that the district court erred by declining to hold an apportionment hearing, contending that the supreme court's opinion in *Martin* required the district court to apportion the settlement proceeds between her and UCare. Under *Martin*, we must read Minn. Stat. § 256B.056, subd. 6 (Supp. 2009), to assign to the state a medical-assistance recipient's claim to recover medical expenses from a potentially liable third party. 642 N.W.2d at 19. This construction is necessary to avoid constitutional difficulty or federal preemption. *Id.*

In *Martin*, the supreme court explained that, at the time of an accident, an injured party may acquire one or more claims against a third party who is potentially liable for causing the injury. *Id.* at 14. As a condition of receiving medical assistance from the state, a medical-assistance recipient assigns to the state the claim to recover medical expenses from the potentially liable third party. *Id.* at 15. At that point, the state becomes the “sole owner” of the claim against the third party; all of the other claims, however, remain the property of the medical-assistance recipient. *Id.* All of the remaining, nonassigned claims are protected by the federal statutory anti-lien provision, 42 U.S.C. § 1396p(a)(1) (2006), and may not be reached by the state, even in a cumulative settlement that includes both the state’s claims and the recipient’s claims against the third party. *Id.*

The supreme court specifically recognized that procedure may vary in cases involving medical assistance and claims against a third party. The recipient’s “assignment enables the state to acquire the recipient’s property rights to [the claim for medical expenses] and to take independent legal action, or . . . to be joined as a party to the recipient’s action.” *Id.* at 24. Generally, “the state is entitled to recover the full amount of the assigned claim for medical expenses due from potentially liable third parties.” *Id.* at 25 n.28. However, “the state must take appropriate steps with respect to its assigned claim for medical expenses, whether that is initiating a lawsuit, participating in a lawsuit initiated by the recipient, or taking part in settlement negotiations.” *Id.* at 25 n.29.

In *Martin*, the state was “only entitled to a part of the settlement proceeds because it released the third parties from further liability.” *Id.* The settlement purported to encompass all claims against the third party, including both the recipient’s claims and the state’s claim for medical expenses. *Id.* at 26. The supreme court remanded to the district court, instructing it to “specifically consider that the state’s claim was part of the settlements and [to] specifically allocate the settlement proceeds among [the recipient’s] nonassigned personal injury claims . . . and the state’s separately owned claim for medical expenses.” *Id.* at 27. Because a settlement involves a compromise of the parties’ claims and damages, the district court had to allocate the settlement “in recognition of the nature of the settlement as a compromise.” *Id.*

Here, the district court concluded that *Martin* is distinguishable, and that the state was entitled to recover its entire claim for medical expenses from the settlement. We agree. In *Martin*, the state was impleaded as an involuntary plaintiff. *Id.* at 6. The state separately pleaded a claim for medical expenses, and as part of the settlement relinquished this claim and released the defendants from all further liability. *Id.* at 26-27. UCare, in contrast, was not impleaded and was not a party to the settlement. The district court reasoned that limiting UCare’s recovery based upon a settlement to which it was not a party would be unfair, and that *Martin* did not require apportionment in this case because apportionment is only required in a narrow range of factual and procedural circumstances.

The parties contest the meaning or application of *Martin*. UCare argues that it had sole ownership of its claim against the defendants for medical expenses, and that it may

recover all of its medical-care expenditures from the settlement proceeds because it did not participate in the settlement negotiations with the defendants and did not approve the settlement eventually agreed upon. UCare notes that the settlement purports to settle all claims against the defendants, and further, the settlement expressly requires appellant to indemnify the defendants against UCare's claim for medical expenses.

Appellant urges us to conclude that Minn. Stat. § 256B.056, subd. 6, only effected a partial assignment of her medical-expenses claim to the state. Alternatively, appellant argues that UCare failed to take appropriate steps to independently preserve its claim because it declined to participate in settlement negotiations despite its knowledge of her claims against and settlement negotiation with the defendants. Either way, appellant contends, the district court must apportion the settlement proceeds between her and UCare, determining the portion of the settlement that constitutes UCare's claim for medical expenses and the portion of the settlement that constitutes appellant's claims for other relief based on the proportionate amount of each claim against the amount of the entire settlement.

As noted above, *Martin* requires the state to take "appropriate steps" regarding its assigned claim for medical expenses. *Id.* at 25 n.29. Thus, the relevant question is whether the state had a fair opportunity to participate (or otherwise independently move on its claim) but failed to take appropriate steps to preserve its interest in the undivided claim for medical expenses. The parties dispute whether UCare was given a reasonable opportunity to participate in the settlement negotiations, but neither party provides a citation to the record, which is silent on this issue.

Nevertheless, we conclude that UCare did not fail to take appropriate steps with respect to its assigned claim for medical expenses. It is clear from the record that UCare was not a party to the settlement and did not release the defendants from potential liability at that time. UCare did not intervene until after the district court had already approved appellant's settlement with the defendants, which requires appellant to indemnify the defendants in the event of liability to UCare. These facts support a conclusion that UCare's claim is not subject to apportionment, since appellant could not independently limit UCare's claim for medical expenses. At the time it intervened, UCare could have brought an independent action against the defendants, who in turn would have sued appellant for indemnification. Although UCare instead joined the suit as an intervenor, we believe that this was an equally effective "appropriate step" to preserve its claim for medical expenses. On these facts, the district court did not err in determining that UCare's claim was not subject to apportionment.

**Affirmed.**