



SUBMITTING CLAIMS TO HOSPITAL DISTRICTS

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There have been several articles in Trial News recently that emphasize the claim-filing requirements that must be followed before suing a government entity. The courts have held that strictly following the statutory procedures is a jurisdictional requirement and that "substantial compliance" is not sufficient. Most of the appellate cases involve claims against cities or counties, or against the University of Washington. See, e.g., Lewis v. Mercer Island, 63 Wn.App. 29 (1996) (claim must be "filed with the city clerk") and Hardesty v. Stenchever, 82 Wn.App. 253 (1996) (claim must be filed with the state office of risk management).

A trap for the unwary is that many hospitals in this state are part of "public hospital districts," which are local government entities to which the strict claim-filing requirements apply. All of the public hospitals cannot be listed in this article, but it may surprise some attorneys to know they do not comprise only small rural hospitals, but also some major urban hospitals, e.g., Stevens Hospital, Evergreen Hospital, and Valley Medical Center. A complete list of all hospitals and their legal status and ownership ("Washington State Directory of Hospitals") can be obtained from the Washington State Department of Health, tel. (360) 236-4216.

The claim filing requirement for municipal corporations is found in RCW 4.96.020. The requirement is that a claim must be "presented to and filed with the governing body" of the governmental entity (i.e., the Public Hospital District). Nowhere in the statute, however, is there a definition of what constitutes either "filing" or "presenting" the claim.

A case my firm is handling illustrates the pitfalls in this statutory scheme. The claim alleged negligence on the part of an employee of the Othello Community Hospital, which is owned by the Adams County Public Hospital District No. 1. A claim form was mailed to the District at the address of the hospital (a procedure we have followed for many years in public hospital claims), and after waiting the requisite sixty days a lawsuit was commenced. The statute of limitations passed shortly thereafter, and we received a motion for summary judgment claiming that we had not met the claim requirement because the claim had only been mailed to the District, and had not been "presented to and filed with" the Board of Commissioners (the "governing body" of the Hospital District). Interestingly, the motion noted the claimant's failure to follow the statutory requirement, but it did not spell out what procedure should have been followed. As it turned out, there was a reason for that oversight.

During discovery, it was learned that the District has never adopted procedures or rules for the filing or presentation of claims. Each of the five Commissioners was separately deposed, and none of them knew how a member of the public could meet the statutory requirement for filing and presenting a claim. Some thought there needed to be personal service on each of the Commissioners (whose addresses were a matter of public record at the courthouse), but others felt the claimant should attend one of the Board's monthly meetings at the hospital and present the claim at that time. Most said they would advise someone inquiring about submitting a claim "to consult an attorney" to find out what to do.

Our response to the summary judgment motion argued that, in the absence of any District rules or procedures for submitting claims, it was sufficient to mail it to the District at the hospital's address. The phrase "substantial compliance" was not used in the response, given the earlier cases holding that this was not a sufficient basis for failing to meet the claim requirements. During discovery, it was also found that the District and the Board had no address, other than that of the hospital itself (which is the only medical facility operated by the District). The District's bylaws included a general grant of administrative authority to the Superintendent of the District, who also was the Administrator of the hospital.



We also argued the applicability of the Administrative Procedure Act, RCW 34.05. Although there is case law that the “agencies” to which the APA applies must be entities engaged in state-wide activities (see Kitsap Fire District v. Kitsap County, 87 Wn.App. 753 (1997), in 1992 a provision was added to the definition of “agency” in RCW 34.05.230 to include any local governmental agency that may request the appointment of an administrative law judge under Chapter 42.41 RCW (the whistle-blower statute). Since the whistle-blower statute would apply to local governmental entities, including public hospital districts, this provision would seem to expand the coverage of the APA to almost all local governmental entities. However, no case law could be found that states that proposition.

Under the APA, an agency is required to adopt rules to guide the public in making submissions or requests to the agency and “no person may be required to comply with agency procedure not adopted as a rule.” (RCW 34.05.220(1)(b)). The APA also defines “filing” a document as delivery to a place designated by the agency for receipt of official documents (which designation had never been done by the hospital district in our case) or in the absence of such designation “at the office of the agency head” (RCW 34.05.010(6)). In our case, the “agency head” as defined by the APA was the Board of Commissioners (or at least a majority of them) (RCW 34.05.010(4)). Since the Board of Commissioners had no designated office or address, it was argued that the place where they have their monthly meetings, i.e., the Othello Community Hospital, was its “office.”

Judge Philip W. Borst of Lincoln County, sitting as a visiting judge, denied the defendant’s motion for summary judgment. In at least one other case of which I am advised, Adams County Judge Richard Miller had ruled against a claimant who submitted the claim form to the Othello Community Hospital, holding that the claim form had to be personally served on the members of the Board to meet the “presented to and filed with” requirement.

In any claim against a hospital district, it would be wise to submit it well in advance of the statute of limitations to ensure through discovery that compliance with the claim filing requirement is not an issue. It would also be wise to request copies of bylaws or other procedures adopted by the district that might set out specific or unique procedures that must be followed for that particular district. Finally, if one wishes to be as safe as possible, and if the district challenges the submission of a claim to the hospital, it might be wise to personally serve the claim form on each member of the Board of Commissioners as well as submitting it to the Board for “filing” at the address of the hospital. Perhaps a letter indicating that intent would be sufficient to elicit an acknowledgment of “presentation and filing” of the claim.

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