Supreme Court Preserves Medicaid Rate Challenges Brought Under the Supremacy Clause

On February 22, 2012, the U.S. Supreme Court issued its opinion in Douglas v. Independent Living Center of Southern California, Inc., a case closely watched by health care providers that are persistently subject to substantial cuts to Medicaid reimbursement stemming from state budgetary woes. The Court had granted certiorari to decide the issue of whether Medicaid providers and beneficiaries could bring a claim under the Supremacy Clause of the U.S. Constitution to challenge reductions to Medicaid payment rates where the state acted contrary to federal Medicaid law. The federal statutory provision at issue, 42 U.S.C. § 1396a(a)(30)(A) (“Section 30A”), requires that a state’s Medicaid plan “provide such methods and procedures relating to . . . the payment for, care and services available under the plan … as may be necessary to . . . assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.”

The Court’s earlier decision in Gonzaga University v. Doe, 526 U.S. 273 (2002), significantly limited the availability of health care provider standing to recover damages related to Medicaid rate cuts that violate federal Medicaid law. In response, Medicaid providers have framed the issue as a challenge to the constitutionality of state laws that conflict with federal Medicaid law in order to enjoin or halt the offending rate reduction. These Supremacy Clause challenges have been particularly successful in the Ninth Circuit, from which the Douglas cases were appealed.[1]

Given the current composition of the Court and the fact that it decided to review the cases, there was wide expectation that the Court would reverse the Ninth Circuit decisions and limit (or eliminate) Supremacy Clause challenges to state Medicaid rate reductions. The 5-4 divided court, however, declined to do so. Instead, the Court remanded the cases to the Ninth Circuit for reconsideration in light of developments after the Court granted certiorari; i.e., the Centers for Medicare & Medicaid Services (“CMS”) had determined that the rate reductions at issue satisfied Section 30A requirements, and therefore California could amend its state Medicaid plan and implement those changes.

The Court observed that CMS approval of California’s state plan amendments “does not change the underlying substantive question”—i.e., whether California’s amendments are, in fact, consistent with Section 30A—but stated that it “may change the answer.” The Court also suggested that it may be more appropriate for Medicaid providers to first seek review of the federal agency (i.e., CMS) decision under the Administrative Procedure Act, rather than pursue a federal court action under the Supremacy Clause. In light of the change in the case’s procedural posture, the Court did not decide whether Medicaid providers and beneficiaries are permitted to bring a Supremacy Clause action to enforce Section 30A before final CMS action on a Medicaid plan amendment, nor did the Court decide whether such an action could be brought after CMS approved the plan amendment. Instead, the Court remanded to the Ninth Circuit to decide the latter issue.

Writing for the four dissenting justices, Chief Justice Roberts criticized the majority for not deciding the issue on review and for issuing an opinion that would, in his view, “create a bizarre rush to the courthouse” following a state’s adoption of Medicaid plan amendments, “as litigants seek to file and have their Supremacy Clause causes of action decided before the agency has time to arrive at final agency action reviewable in court.”

For health care providers, however, the Court’s opinion is good news, particularly in the Ninth Circuit, as it leaves the door open for future challenges to Medicaid rate cuts that do not meet federal Medicaid requirements. Whether or not CMS “rubber stamps” these cuts, the legal cause of action remains viable and allows providers to petition a court for relief from arbitrary budget cuts that threaten provider participation in the Medicaid program and beneficiary access to health care services.

[1] During 2008-2009, the California Legislature passed several laws reducing payments to various Medicaid providers, and placed a cap on the state’s maximum contribution to wages and benefits paid by counties to providers of in-home supportive services. Providers challenged these reductions in a series of five consolidated cases resulting in seven Ninth Circuit decisions on appeal in Douglas.
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