Court Decides Not to Decide Medicaid Case

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The U.S. Supreme Court's much-anticipated decision on whether Medicaid providers can challenge state Medicaid rates in federal court turned out to be a dud. The decision concerned the case of *Douglas v. Independent Living Centers of California, Inc.*, which California Medicaid providers initiated when the state sought to impose substantial cuts to Medicaid reimbursement rates.

The providers challenged the rate cuts as violating the equal access clause in the federal Medicaid statutes, which requires rates to be "consistent with efficiency, economy, and quality of care" and "sufficient to enlist enough providers so that such care and services are available . . . at least to the extent that such care and services are available to the general population in the geographic area." Providers argued that after the cuts the new rates were so low that they did not meet the requirements of the equal access clause. The providers were successful in the lower courts, but the state appealed the case the U.S. Supreme Court.

The issue in the Supreme Court was not whether the Medicaid rates were adequate, but whether the providers even had the right to challenge the rates in federal court. No Medicaid statute gives providers a right to challenge rates, but providers argued that they had an inherit right to challenge the rates under the Supremacy Clause of the U.S. Constitution, which provides that any state law that is inconsistent with a valid federal law is preempted and unenforceable.

After the Supreme Court heard oral arguments on the issue, but before the Court issued an opinion, the Centers for Medicare and Medicaid Services (CMS) approved some of the rate cuts that California proposed and the state withdrew the rest. As a result, when it came time for the Supreme Court to issue its decision, a majority of five justices decided not to decide the issue. Instead, the Court remanded the case back to the Ninth Circuit. The Court instructed the Ninth Circuit to consider how the intervening approval by CMS of some of the rate cuts affected the issues in the case.

The Court suggested that it might now be more appropriate for providers to challenge the rate cuts under the Administrative Procedures Act (APA). Under the APA, parties can challenge actions of an administrative agency, in this case CMS, if the actions were inconsistent with the law. Therefore, providers might be able to argue under the APA that CMS should not have approved the rate cuts because the cuts are inconsistent with the equal access clause. But a legal challenge under the APA would be stacked against the providers because, as the Supreme Court acknowledged, courts must give substantial deference to the decisions of administrative agencies and CMS is "comparatively expert in the [Medicaid] statute's subject matter."

The four dissenting justices in the case argued that there was no need to remand the case because in their view Medicaid providers had no right to challenge the Medicaid rates under the Supremacy Clause. In the end, the Court's decision did little to clarify the issue of whether providers can challenge state Medicaid rates in federal court, but the Court will likely have to decide conclusively the issue in the near future.