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The Supreme Court Holds That Medicaid Providers Cannot Sue To Enforce Federal Reimbursement Rate Standards

Article By:

Eric A. Klein

On March 31, 2015, the ***U.S. Supreme Court*** issued its decision in ***Armstrong v. Exceptional Child Center, Inc.***, holding that Medicaid providers cannot sue to enforce reimbursement standards set forth in federal Medicaid law.[1]

Armstrong involved a group of Idaho Medicaid providers who sued the state Medicaid agency after recommended reimbursement rate increases were not adopted for budgetary reasons. The providers argued that the state failed to increase rates in a manner consistent with federal requirements. Under federal law, state Medicaid plans must contain procedures to ensure that provider reimbursement rates "are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers" such that enrollees have a level of access to care similar to the general population.[2] The Act, however, does not expressly establish a right that is enforceable by Medicaid providers.

The question before the Court, then, was whether Medicaid providers are nonetheless able to bring a lawsuit seeking to enforce this provision. The Ninth Circuit held in this case that the Supremacy Clause provides an implied right of action for providers to enforce the statute against states.[3] The Supreme Court reversed the judgment.

The Supreme Court's position in Armstrong is closely divided. In an opinion written by Justice Scalia, a five-person majority of the court holds that Medicaid providers cannot sue to enforce §30(A) of the Medicaid Act. The Supremacy Clause—instructing courts to give federal law priority when state and federal laws clash—does not create a private right of action. Furthermore, the power of federal courts to enjoin unlawful executive action is subject to statutory limitations, and the Medicaid Act implicitly precludes private enforcement of the provision.

Justice Breyer, concurring in part and concurring in the judgment, did not join a part of Justice Scalia's opinion that questioned whether providers are intended beneficiaries of the federal-state Medicaid agreement and whether providers have enforcement rights under any provision of the Medicaid Act. This part of the opinion does not speak for a majority of the Court, however, meaning that Armstrong does not preclude private parties from enforcing provisions of the Medicaid Act beyond §30(A). Instead, Justice Breyer offers a more narrow position, recognizing that in the circumstances before the Court—involving broad and nonspecific standards for complex rate-setting—administrative agencies are better positioned to offer relief than judges.

One effect of the Armstrong decision is that the only way to enforce §30(A) of the Medicaid Act is through administrative avenues. The Secretary of Health and Human Services (HHS) must approve state Medicaid plans and amendments, and has the power to withhold federal funds from a state when a plan is not consistent with federal requirements. A state can challenge the Secretary's determination in an administrative hearing and then seek review in federal court. However, as maintained in a dissenting opinion written by Justice Sotomayor and joined by three of the Justices, HHS authority to withhold federal Medicaid funds is not always an effective remedy for enforcing Medicaid law, in part because of the harmful effects of such action on beneficiary access to medical services.

Another option, as identified by Justice Breyer, is for HHS to promulgate more specific standards for setting Medicaid provider reimbursement rates. While HHS has not implemented the requirement through regulation in the past, we may see increased advocacy and activity along these lines in the wake of the decision.

As to other provisions of federal Medicaid law, the effects of the Armstrong decision are unknown. Whether and how courts employ Armstrong to narrow or to sustain the enforcement ability of Medicaid providers remain to be seen.

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[1] The opinion is available in full here.

[2] 42 U.S.C. § 1396a(a)(30)(A).

[3] Exceptional Child Center, Inc. v. Armstrong, 567 Fed.Appx. 496, 497 (9th Cir. 2014).

Rachel Landauer is the co-author of this article.

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