

SUPREME COURT OF WASHINGTON

Overlake Hospital Association v. Department of Health

Overlake Hosp. Ass'n v. Dep't of Health, 239 P.3d 1095 (Wash. 2010) · No. No. 82728-1 · Decided September 23, 2010

SUMMARY

The Washington Supreme Court reviewed the Department of Health’s methodology for determining the need for an additional ambulatory surgical facility under the certificate-of-need program. The court held that the governing regulation was ambiguous and deferred to the Department’s interpretation, which excluded exempt facilities from existing-capacity calculations but included surgeries performed there in projected future need. The court reversed the Court of Appeals and affirmed issuance of the certificate of need to Swedish Health Services.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Alexander, J.; Barbara A. Madsen, C.J.; Charles W. Johnson, J.; Tom Chambers, J.; Richard B. Sanders, J.; Susan Owens, J.; Mary E. Fairhurst, J.; James M. Johnson, J.; Debra L. Stephens, J.
JURISDICTION	Washington
DECIDED	September 23, 2010
DOCKET	No. 82728-1
DISPOSITION	reversed
PROCEDURAL POSTURE	The Department of Health issued Swedish a certificate of need to construct a five-room ambulatory surgical facility in Bellevue. After an administrative health law judge and the King County Superior Court upheld the decision, the Washington Court of Appeals reversed. The Washington Supreme Court granted review.
STANDARD OF REVIEW	Agency decisions in certificate-of-need cases are presumed correct, and challengers bear the burden of overcoming that presumption. The court may substitute its interpretation of law for the agency's, but accords substantial deference to an agency's interpretation involving its special knowledge and expertise. An agency decision is arbitrary and capricious when it results from willful and unreasoning disregard of the facts and circumstances.

PRECEDENTIAL VALUE	Published Washington Supreme Court en banc opinion; precedential
PARTIES	Department of Health of the State of Washington, Swedish Health Services v. Overlake Hospital Association, Overlake Hospital Medical Center, King County Public Hospital District No. 2, d/b/a Evergreen Healthcare

TOPICS

health law

administrative law

judicial review of agency action

statutory interpretation

appellate procedure

PRACTICE AREAS

health law

administrative law

statutory interpretation

judicial review of agency action

QUESTIONS PRESENTED

1. Whether WAC 246-310-270(9) permits the Department of Health to exclude exempt physician- and dentist-office surgical facilities from existing capacity while including surgeries performed in those facilities in projected future need.
2. Whether the Department's methodology was arbitrary and capricious or otherwise erroneous under the certificate-of-need statutes and regulations.
3. What level of deference the court should give the Department's interpretation of the ambiguous regulation.

HOLDINGS

1. WAC 246-310-270(9) is ambiguous, and it permits the Department to exclude exempt facilities from existing operating-room capacity while including surgeries performed in those facilities when projecting future need.
2. The Department's decision to issue Swedish a certificate of need was not arbitrary or capricious.

KEY QUOTATIONS

"A term in a regulation should not be read in isolation but rather within the context of the regulatory and statutory scheme as a whole." (239 P.3d at 1100)

"The fact that the pertinent regulation can be interpreted in a way that is consistent with the Department's view of it, and also with that of Overlake and Evergreen, leaves us to conclude that WAC 246-310-270(9) is ambiguous." (239 P.3d at 1101)

"Because this court must accord the Department's interpretation of the ambiguous regulatory language great deference, as the agency has expertise and insight gained from administering the regulation that the reviewing court does not possess, we conclude that the Department properly considered the competing policy rationales when it applied the factors set forth in WAC 246-310-270(9) and that its decision was not arbitrary or capricious." (239 P.3d at 1102)

FACTUAL BACKGROUND

Washington's certificate-of-need program requires certain health-care providers, including ambulatory surgical facilities, to obtain Department of Health approval before establishing or expanding facilities. In calculating need for Swedish's proposed Bellevue facility, the Department excluded exempt physician- or dentist-office surgical facilities from existing operating-room capacity but included surgeries performed there in projected future need. The Department found a need for 5.39 outpatient operating rooms and issued Swedish a certificate of need for a five-room facility.

PROCEDURAL HISTORY

Swedish applied for a certificate of need for a new ambulatory surgical facility in East King County. Overlake and Evergreen intervened as affected parties and challenged the Department's methodology for calculating existing operating-room capacity and projected future need. The health law judge and superior court upheld the Department's decision, but the Court of Appeals reversed as arbitrary and capricious. The Supreme Court reversed the Court of Appeals and affirmed the Department's decision.

DISPOSITION

reversed

CASES CITED

- Univ. of Wash. Med. Ctr. v. Dep't of Health, 164 Wash. 2d 95, 102, 187 P.3d 243 (2008)
- City of Olympia v. Drebeck, 156 Wash. 2d 289, 295, 126 P.3d 802 (2006)
- Overlake Hosp. Ass'n v. Dep't of Health, 148 Wash. App. 1, 200 P.3d 248 (2008)
- Overlake Hosp. Ass'n v. Dep't of Health, 166 Wash. 2d 1010, 210 P.3d 1018 (2009)
- City of Seattle v. Allison, 148 Wash. 2d 75, 81, 59 P.3d 85 (2002)
- State v. Burke, 92 Wash. 2d 474, 478, 598 P.2d 395 (1979)
- State v. J.M., 144 Wash. 2d 472, 480, 28 P.3d 720 (2001)
- Columbia Physical Therapy, Inc. v. Benton Franklin Orthopedic Assocs., 168 Wash. 2d 421, 433, 228 P.3d 1260 (2010)
- ITT Rayonier, Inc. v. Dalman, 122 Wash. 2d 801, 807, 863 P.2d 64 (1993)
- Safeco Ins. Cos. v. Meyering, 102 Wash. 2d 385, 392, 687 P.2d 195 (1984)
- St. Joseph Hosp. v. Dep't of Health, 125 Wash. 2d 733, 735, 887 P.2d 891 (1995)