

COURT OF APPEALS OF GEORGIA

Georgia Department of Community Health v. Kennestone Hospital, Inc. d/b/a WellStar Windy Hill Hospital

Kennestone Hospital · No. A22A0112 · Decided June 29, 2022

SUMMARY

The Georgia Court of Appeals held that WellStar Windy Hill Hospital could not convert its long-term care hospital beds to short-stay general acute care beds without obtaining a new certificate of need. The court concluded that WellStar had not been approved through the certificate-of-need process in 1996 and therefore could not invoke regulatory provisions allowing automatic reversion of certain beds. The court reversed the Superior Court of Cobb County and dismissed the Department of Community Health's separate appeal as moot.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Hodges, Judge; Barnes, P. J.; Brown, J.; Hodges, J.
JURISDICTION	Georgia
DECIDED	June 29, 2022
DOCKET	A22A0112
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Georgia Department of Community Health determined that WellStar's proposed conversion of its long-term-care hospital beds to short-stay acute-care beds required prior certificate-of-need approval. After the CON Appeal Panel and the DCH commissioner affirmed, the Superior Court of Cobb County reversed on judicial review. Emory and the DCH obtained discretionary review in the Court of Appeals.
STANDARD OF REVIEW	The court reviews whether the record supports the final decision of the administrative agency, not whether it supports the superior court's decision. Under OCGA § 31-6-44.1 (a), agency action may be reversed or modified only if it violates constitutional or statutory provisions, exceeds agency authority, uses unlawful procedures, contains legal error, lacks substantial evidence, or is arbitrary, capricious, or an abuse of discretion.
PRECEDENTIAL VALUE	published

PARTIES

Georgia Department of Community Health, Emory University d/b/a Emory University Hospital Smyrna, Saint Joseph's Hospital of Atlanta, Inc. d/b/a Emory Saint Joseph's Hospital v. Kennestone Hospital, Inc. d/b/a WellStar Windy Hill Hospital

TOPICS

health law

administrative law

judicial review of agency action

statutory interpretation

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PRACTICE AREAS

health law

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certificate of need regulation

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether WellStar qualified for the regulatory exception permitting long-term-care beds to revert automatically to short-stay beds.
2. Whether converting Windy Hill from a long-term-care hospital to a short-stay general acute-care hospital constituted a new institutional health service requiring prior CON approval.
3. Whether WellStar had a vested right to operate as a general acute-care hospital while operating as a long-term-care hospital, such that requiring a new CON was unconstitutional.
4. Whether the DCH's separate appeal should be dismissed as moot after the court reversed the superior court's judgment in the related appeal.

HOLDINGS

1. WellStar was not entitled to automatic reversion of its long-term-care beds to short-stay beds because Windy Hill had not been approved through the certificate-of-need process to use short-stay beds for long-term acute care.
2. WellStar's proposed conversion from a long-term-care hospital to a short-stay general acute-care hospital constituted a new institutional health service requiring prior CON review and approval.
3. WellStar had no vested right to remain a general acute-care hospital while operating as a long-term-care hospital, and requiring a new CON did not violate its constitutional rights.
4. The DCH's appeal in Case No. A22A0112 was dismissed as moot after the court reversed the superior court's judgment in Case No. A22A0111.

KEY QUOTATIONS

"WellStar's proposed conversion of its long-term care hospital beds to short-term acute care hospital beds requires a new CON." (2)

"Judgment reversed in Case No. A22A0111. Appeal dismissed as moot in Case No. A22A0112." (31)

FACTUAL BACKGROUND

Windy Hill opened in 1973 as a 165-bed general acute-care short-stay hospital and reduced its capacity to 115 beds in 1983. In 1996, WellStar obtained agency authorization to operate Windy Hill as a specialized long-term acute-care hospital without obtaining a CON, surrendered its former general-hospital permit, and operated only long-term-care beds for more than two decades. In 2019, WellStar sought to convert its licensed complement of 115 long-term-care beds to short-stay acute-care beds after relinquishing its Medicare long-term-care certification.

PROCEDURAL HISTORY

Windy Hill operated as a short-stay general acute-care hospital before Georgia's certificate-of-need program became effective in 1979. In 1996, the predecessor agency determined that WellStar did not need CON approval to convert the facility to a long-term acute-care hospital, and WellStar surrendered its general-hospital permit and obtained a specialized long-term acute-care permit. In 2019, WellStar sought to convert its long-term-care beds back to short-stay beds without a new CON. The DCH denied the request, and its decision was affirmed administratively but reversed by the superior court. The Court of Appeals reversed the superior court in A22A0111 and dismissed the DCH's separate appeal in A22A0112 as moot.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment of the Superior Court of Cobb County was reversed in the related appeal. The separate DCH appeal was dismissed as moot; no separate remand instruction was issued.

CASES CITED

- Palmyra Park Hosp. v. Phoebe Sumter Med. Center, 310 Ga. App. 487, 488 (714 SE2d 71) (2011)
- Cobb Hosp., Inc. v. Dept. of Community Health, 349 Ga. App. 452, 456, 459-461 (825 SE2d 886) (2019), reversed in part on other grounds, 307 Ga. 578 (837 SE2d 371) (2019)
- Ga. Dept. of Community Health v. Satilla Health Svcs., 266 Ga. App. 880, 885 (1) (c) (598 SE2d 514) (2004)
- Browne & Price, P.A. v. Innovative Equity Corp., 361 Ga. App. 521, 523 (1), n. 7 (864 SE2d 686) (2021)
- ASMC, LLC v. Northside Hosp., 344 Ga. App. 576, 577, 582 (810 SE2d 663) (2018)
- Medical Center of Central Ga. v. Hosp. Auth. of Monroe County, 340 Ga. App. 499, 504 (3) (798 SE2d 42) (2017)
- Premier Health Care Investments v. UHS of Anchor, 310 Ga. 32, 35-36 (2) (a) (849 SE2d 441) (2020)
- Deal v. Coleman, 294 Ga. 170, 177, 181 (2) (a) (751 SE2d 337) (2013)
- HCA Health Svcs. v. Roach, 263 Ga. 798, 800-801 (3) (a) (439 SE2d 494) (1994), overruled on other grounds by Marsh v. Clarke County School District, 292 Ga. 28 (732 SE2d 443) (2012)
- Turner Outdoor Advertising v. Werco, 194 Ga. App. 14, 15 (2) (389 SE2d 778) (1989)
- Atlanta Independent School System v. Lane, 266 Ga. 657 (1) (469 SE2d 22) (1996)
- City of Decatur v. DeKalb County, 284 Ga. 434, 436 (2) (668 SE2d 247) (2008)

- Cobb Hosp. v. Dept. of Community Health, 357 Ga. App. 358, 360 (850 SE2d 831) (2020)
- Langley v. Langley, 279 Ga. 374, 376 (1) (613 SE2d 614) (2005)

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