

## SUPREME COURT OF THE STATE OF KANSAS

### EagleMed, LLC v. Travelers Insurance, 56 Kan. App. 2d 79

424 P.3d 532 (2018) (Supreme Court of the State of Kansas 2022) · No. Nos. 117,903, 117,904, 117,905, 117,906 · Decided May 13, 2022

#### SUMMARY

The Kansas Supreme Court held that the federal Airline Deregulation Act preempts state laws regulating the prices, routes, or services of air ambulance carriers, but does not itself require payment of air ambulance claims. The court concluded that Kansas workers compensation authorities may resolve billing disputes under the 2012 fee schedule, provided they determine whether charges are usual and customary in a manner consistent with federal law. The court reversed the Workers Compensation Appeals Board's order requiring full payment and reversed the Court of Appeals' direction to dismiss, remanding for factual findings.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                               |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Kansas                                                                                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | Biles, J.; Stegall, J.; Wall, J., not participating; Standridge, J., not participating; Patrick D. McAnany, Senior Judge, assigned; Michael J. Malone, District Judge Retired, assigned                                                                                                                                       |
| JURISDICTION          | Kansas                                                                                                                                                                                                                                                                                                                        |
| DECIDED               | May 13, 2022                                                                                                                                                                                                                                                                                                                  |
| DOCKET                | Nos. 117,903, 117,904, 117,905, 117,906                                                                                                                                                                                                                                                                                       |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | Travelers sought review of a Kansas Workers Compensation Appeals Board decision requiring it to pay EagleMed's air ambulance invoices in full. The Kansas Court of Appeals reversed in part and remanded with directions to dismiss the administrative dispute without resolution. The Kansas Supreme Court granted review.   |
| STANDARD OF REVIEW    | The Kansas Judicial Review Act governed review of the Board's decision. Travelers bore the burden of proving invalidity. Legal questions concerning the Workers Compensation Act and implementing regulations were reviewed de novo; factual determinations were reviewed under K.S.A. 77-621(d) without reweighing evidence. |
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| <b>PRECEDENTIAL VALUE</b> | published precedential opinion       |
| <b>PARTIES</b>            | Travelers Insurance v. EagleMed, LLC |

## TOPICS

workers compensation insurance preemption administrative law statutory interpretation

## PRACTICE AREAS

workers compensation insurance administrative law constitutional law

## QUESTIONS PRESENTED

1. Whether the Kansas Workers Compensation Appeals Board had authority to resolve an air ambulance fee dispute under the 2012 fee schedule consistently with the Airline Deregulation Act's preemption provision.
2. Whether the 2012 Kansas workers compensation fee schedule required air ambulance billings to be supported by evidence that the charges were usual and customary.
3. Whether the Airline Deregulation Act required Travelers to pay EagleMed's full billed charges or otherwise imposed a payment obligation.
4. Whether federal Medicare reimbursement rates applied to the disputed air ambulance charges.

## HOLDINGS

1. The Kansas Workers Compensation Act authorizes administrative resolution of fee disputes involving health care services provided to injured workers, including disputes concerning air ambulance charges, subject to federal preemption limits.
2. The 2012 Kansas workers compensation fee schedule requires air ambulance billings to be supportable by evidence that the charges are usual and customary; it does not automatically require payment of the carrier's full billed amount.
3. Applying the 2012 fee schedule is not necessarily preempted before the schedule is applied to the particular charges and the factual record shows whether the administrative inquiry imposes a substantive standard or has a significant effect on air carrier prices, routes, or services.
4. The Airline Deregulation Act does not itself require payment to air ambulance carriers providing services to injured workers; any payment obligation must arise from state law.
5. Federal Medicare reimbursement rates do not apply to the disputed air ambulance charges under the 2012 fee schedule.

## KEY QUOTATIONS

*"We remand the case to the Board to decide whether these charges are in fact "usual and customary" as the fee schedule envisions." (at 6)*

*“But we do hold the 2012 fee schedule requires billings for air ambulance services to be supportable by evidence that the charges are usual and customary.”* (at 20)

## FACTUAL BACKGROUND

Four employees suffered work-related injuries and were transported by EagleMed air ambulance from rural hospitals to larger facilities. Their employers carried workers compensation insurance through Travelers, which conceded coverage but rejected EagleMed's invoices, ranging from \$21,597.27 to \$33,042.95, as unreasonable. Travelers offered payments ranging from \$4,704.07 to \$8,010.67 based on its interpretation of Medicare reimbursement rates. The dispute concerned whether the invoices represented "usual and customary charges" under Kansas's 2012 workers compensation fee schedule and whether administrative review of those charges was preempted by the federal Airline Deregulation Act.

## PROCEDURAL HISTORY

EagleMed provided air ambulance transportation to four employees injured in separate work-related incidents and submitted invoices to Travelers, the employers' workers compensation carrier. After Travelers offered reduced payments based on Medicare reimbursement rates, EagleMed initiated consolidated fee-dispute proceedings before the Kansas Division of Workers Compensation. The hearing officer and Appeals Board ultimately ordered Travelers to pay the billed amounts in full. The Court of Appeals held that federal preemption deprived the Division of authority to resolve the dispute and remanded for dismissal. The Supreme Court affirmed in part and reversed in part, reversed the Board's order, and remanded for factual findings under the 2012 fee schedule.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The Board must determine whether EagleMed's air ambulance charges are in fact usual and customary under the 2012 fee schedule, make the factual findings necessary to resolve the fee dispute, identify the evidence relevant to that inquiry, and interpret the term consistently with the ADA and Kansas's workers compensation legislative purposes. The Board may not simply order payment in full without factual support and may not impose a preempted substantive standard concerning air carrier prices, routes, or services.

## CASES CITED

- EagleMed LLC v. Cox, 868 F.3d 893 (10th Cir. 2017)
- Texas Mutual Insurance Co. v. PHI Air Medical, LLC, 610 S.W.3d 839 (Tex. 2020), cert. denied, 141 S. Ct. 2565 (2021)
- Board of Miami County Comm'rs v. Kanza Rail-Trails Conservancy, Inc., 292 Kan. 285, 294, 255 P.3d 1186 (2011)
- EagleMed, LLC v. Travelers Ins., 56 Kan. App. 2d 79, 424 P.3d 532 (2018)
- Estate of Graber v. Dillon Companies, 309 Kan. 509, 513, 439 P.3d 291 (2019)

- *Hawkins v. Southwest Kansas Co-op Svc.*, 313 Kan. 100, 107, 484 P.3d 236 (2021)
- *May v. Cline*, 304 Kan. 671, 675, 372 P.3d 1242 (2016)
- *Hanson v. Kansas Corp. Comm'n*, 313 Kan. 752, 763, 490 P.3d 1216 (2021)
- *Frick Farm Properties, L.P. v. State Department of Agriculture, Division of Water Resources*, 289 Kan. 690, 709, 216 P.3d 170 (2009)
- *Morales v. Trans World Airlines*, 504 U.S. 374, 383, 385, 388 (1992)
- *Northwest, Inc. v. Ginsberg*, 572 U.S. 273, 284 (2014)
- *American Airlines v. Wolens*, 513 U.S. 219, 232-35 (1995)
- *Air Methods/Rocky Mountain Holdings, LLC v. State ex rel. Department of Workforce Services, Workers' Compensation Division*, 432 P.3d 476, 486-87 (Wyo. 2018)
- *Board of Sedgwick County Commissioners v. Action Rent To Own, Inc.*, 266 Kan. 293, 304, 969 P.2d 844 (1998)
- *State ex rel. Morrison v. Oshman Sporting Goods Co. Kansas*, 275 Kan. 763, 773, 69 P.3d 1087 (2003)
- *Pener v. King*, 305 Kan. 1199, 1205, 391 P.3d 27 (2017)
- *PHI Air Medical, LLC v. Corizon, Inc.*, 628 S.W.3d 460, 471 (Tenn. App. 2021)

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