

SUPREME COURT OF WYOMING

David M. Burke, d/b/a Dave's Drug v. State of Wyoming ex rel.
Department of Health, Office of Health Care Financing, Equality
Care

Burke v. State ex rel. Department of Health, 219 P.3d 122 (Wyo. 2009) · No. S-09-0022 · Decided November 10, 2009

SUMMARY

The Supreme Court of Wyoming affirmed summary judgment requiring a pharmacist to reimburse the Wyoming Department of Health for excess Medicaid payments. The court held that the pharmacist’s withdrawal of his administrative hearing request left the agency determination final and barred him from relitigating the claim under res judicata. The court also rejected arguments that the Medicaid rules were ambiguous or inconsistent and held that additional discovery was unnecessary.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	KITE, Justice; VOIGT, C.J.; GOLDEN, J.; HILL, J.; KITE, J.; BURKE, J.
JURISDICTION	Wyoming
DECIDED	November 10, 2009
DOCKET	S-09-0022
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Wyoming Department of Health sued to recover Medicaid overpayments. The district court granted the Department summary judgment, ruling that Burke was barred from disputing the claim because he failed to exhaust his administrative remedies after withdrawing his hearing request. Burke appealed.
STANDARD OF REVIEW	Summary judgment is reviewed de novo using the same materials and standards as the district court, viewing the record in the light most favorable to the opposing party and allowing all favorable inferences fairly supported by the record. The Supreme Court may affirm on any proper legal ground supported by the record.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential

PARTIES

David M. Burke, d/b/a Dave's Drug v. State of Wyoming ex rel.
Department of Health, Office of Health Care Financing, Equality Care

TOPICS

medicare medicaid administrative law exhaustion of remedies summary judgment res judicata

PRACTICE AREAS

health law administrative law civil procedure appellate procedure statutory interpretation remedies

QUESTIONS PRESENTED

1. Whether res judicata barred Burke from disputing the Department's claim for Medicaid excess payments after he withdrew his administrative hearing request.
2. Whether the Wyoming Medicaid Rules were ambiguous or inconsistent concerning administrative hearings and the Department's authority to file a civil action to recover excess payments.
3. Whether summary judgment was improper because discovery concerning the accuracy of the Department's audit was incomplete.

HOLDINGS

1. Res judicata barred Burke from relitigating the excess-payment claim because the administrative proceeding and district court action involved the same parties, subject matter, issues, and capacities, and Burke had an opportunity to contest the payments administratively but withdrew his hearing request.
2. The Wyoming Medicaid Rules were not ambiguous or inconsistent in a manner that deprived Burke of an administrative remedy or prevented the Department from filing a civil action.
3. Summary judgment was proper because the requested discovery concerning the audit's accuracy was unnecessary to resolve whether the Department's final administrative determination and the doctrine of res judicata barred Burke from disputing the claim.

KEY QUOTATIONS

"Summary judgment is appropriate when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law." (219 P.3d at 125)

"Regardless of the Department's references earlier in the letter to 'overpayment' and recovery through the 'claims adjustment process,' the above paragraphs clearly informed Mr. Burke that the Department was seeking recovery of excess payments pursuant to Chapter 39 and that he had a right to request reconsideration of the decision to recover excess payments and, upon the Department's issuance of a final decision, a contested case hearing." (219 P.3d at 127)

FACTUAL BACKGROUND

A Wyoming Department of Health audit determined that pharmacist David M. Burke had received Medicaid reimbursements exceeding the amounts to which he was entitled. The Department notified Burke of the excess

payments and his rights to reconsideration and an administrative hearing. Burke requested administrative relief but withdrew his hearing request, after which the Department dismissed the administrative action. The Department later sued to recover \$164,432.24, and Burke sought discovery concerning the audit's accuracy.

PROCEDURAL HISTORY

Following an audit, the Department notified Burke of excess Medicaid payments, terminated his provider enrollment, and advised him of reconsideration and hearing rights. Burke requested administrative hearings but later withdrew his request, and the Department dismissed the administrative action. The Department then filed a district court action for recovery of the excess payments; the district court entered summary judgment for \$164,432.24 plus costs and interest. The Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- R.C.R., Inc. v. Deline, 2008 WY 96, 2, 190 P.3d 140, 153 (Wyo. 2008)
- Omohundro v. Sullivan, 2009 WY 38, 7, 202 P.3d 1077, 1081 (Wyo. 2009)
- State ex rel. Arnold v. Ommen, 2009 WY 24, 13, 201 P.3d 1127, 1132 (Wyo. 2009)
- Bentley v. Director of Office of State Lands and Invs., 2007 WY 94, 54, 160 P.3d 1109, 1123 (Wyo. 2007)