

SUPREME COURT OF NORTH DAKOTA

Gross v. North Dakota Department of Human Services

673 N.W.2d 910 (N.D. 2004) · No. No. 20030224 · Decided January 28, 2004

SUMMARY

The Supreme Court of North Dakota affirmed a judgment upholding the Department of Human Services’ decision to place David Gross in the Medicaid lock-in program. The court held that the Department’s findings that Gross had misutilized medical services by obtaining excessive and uncoordinated care from multiple providers were supported by a preponderance of the evidence. The court also upheld the Department’s interpretation of the applicable administrative regulation and applied deferential review to the agency’s factual findings.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Kapsner, Justice; Gerald W. Vande Walle, Chief Justice; Mary Muehlen Maring, Justice; William A. Neumann, Justice; Dale V. Sandstrom, Justice
JURISDICTION	North Dakota
DECIDED	January 28, 2004
DOCKET	No. 20030224
DISPOSITION	affirmed
PROCEDURAL POSTURE	David Gross appealed from a district court judgment affirming the North Dakota Department of Human Services' decision placing him in the Medicaid lock-in program.
STANDARD OF REVIEW	The Supreme Court reviews the agency's decision and the agency record rather than the district court's decision. It affirms factual findings supported by a preponderance of the evidence and does not make independent findings or substitute its judgment for the agency's; the court asks whether a reasoning mind could reasonably conclude that the agency's factual conclusions were supported by the weight of the entire record.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of North Dakota
PARTIES	David Gross v. North Dakota Department of Human Services

TOPICS

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QUESTIONS PRESENTED

1. Whether the Department's findings that Gross misutilized medical services were supported by a preponderance of the evidence.
2. Whether N.D. Admin. Code § 75-02-02-11 authorizes Medicaid lock-in based on excessive utilization of medical services from multiple providers when the utilization may adversely affect the recipient's health or quality of care and there is little or no evidence of medical need.
3. Whether the Department's findings supported its decision to place Gross in the Medicaid lock-in program.

HOLDINGS

1. N.D. Admin. Code § 75-02-02-11 authorizes the Department to place a Medicaid recipient in the lock-in program for excessive utilization of medical services from more than one provider when the excessive services may increase the possibility of adverse effects to the recipient's health or decrease the overall quality of care and there is little or no evidence of medical need.
2. The Department's finding that Gross misutilized medical services was supported by a preponderance of the evidence.

KEY QUOTATIONS

“The plain language of N.D. Admin. Code § 75-02-02-11(1)(c) and (2) authorizes the Department to place a medicaid recipient in the lock-in program for excessive utilization of medical services from more than one provider when those excessive medical services may increase the possibility of adverse effects to the recipient's health or may result in a decrease in the overall quality of care to the recipient and when there is little or no evidence of a medical need.” (¶ 8)

“We conclude a reasoning mind could reasonably conclude from the entire record that Gross's excessive use of medical services constituted misutilization under N.D. Admin. Code § 75-02-02-11.” (¶ 11)

FACTUAL BACKGROUND

Gross, a Medicaid recipient, received medical services from numerous providers for various medical problems. During two utilization-review periods, he saw seventeen and sixteen different physicians, respectively, and obtained numerous prescriptions, many of which were considered potentially addictive. His treating physicians recommended placement in the Medicaid lock-in program because of concerns about addiction, failure to follow medical recommendations, switching physicians, and uncoordinated care. The Department concluded that his

excessive utilization and physician switching constituted misutilization and required him to select one physician and one pharmacy, with referrals required for other services.

PROCEDURAL HISTORY

The Department conducted utilization reviews, determined that Gross had misutilized medical services, and placed him in the Medicaid lock-in program. Following a formal administrative hearing, an administrative law judge recommended affirmance, and the Department adopted that recommendation. Gross appealed to the district court, which initially dismissed the appeal; the Supreme Court reversed and remanded for a decision on the merits in *Gross v. North Dakota Department of Human Services*, 2002 ND 161, 652 N.W.2d 354. On remand, the district court affirmed the Department, and the Supreme Court affirmed that judgment.

DISPOSITION

affirmed

CASES CITED

- *Allen v. Wessman*, 542 N.W.2d 748, 752 (N.D. 1996)
- *Gross v. North Dakota Department of Human Services*, 2002 ND 161, 652 N.W.2d 354
- *New Town Public School District v. State Board of Public School Education*, 2002 ND 127, ¶ 5, 650 N.W.2d 813
- *Feist v. North Dakota Workers Compensation Bureau*, 1997 ND 177, ¶ 8, 569 N.W.2d 1
- *North Dakota Department of Human Services v. Ryan*, 2003 ND 196, ¶ 11, 672 N.W.2d 649
- *Hilton v. North Dakota Education Association*, 2002 ND 209, ¶ 12, 655 N.W.2d 60