

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
PENNSYLVANIA

Susan Pellicano, Successor in Interest to Michael Pellicano v. The
Office of Personnel Management, Insurance Operations, Health
Insurance II

Pellicano · No. 3:17-698 · Decided March 31, 2026

SUMMARY

The United States District Court for the Middle District of Pennsylvania adopted a magistrate judge's report and recommendation and resolved cross-motions for summary judgment in a dispute over Federal Employees Health Benefits Act coverage. The court held that OPM's denial of coverage for a replacement shower commode chair for a quadriplegic federal retiree was arbitrary and capricious, granted the plaintiff's motion for summary judgment, and denied the defendant's motion. The court ordered judgment for the plaintiff in the amount submitted for reimbursement of the chair.

CASE DETAILS

COURT	United States District Court for the Middle District of Pennsylvania
WRITING FOR THE COURT	Malachy E. Mannion
JURISDICTION	United States District Court for the Middle District of Pennsylvania
DECIDED	March 31, 2026
DOCKET	3:17-698
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed objections to a magistrate judge's report and recommendation on cross-motions for summary judgment concerning judicial review of an Office of Personnel Management health-benefit coverage decision under FEHBA and the APA.
STANDARD OF REVIEW	The court reviewed timely objections to the report and recommendation de novo under 28 U.S.C. § 636(b)(1), reviewed unobjected-to portions for clear error as a matter of good practice, and reviewed OPM's FEHBA benefits decision under the APA's arbitrary-and-capricious, abuse-of-discretion, and contrary-to-law standards. The agency also had to consider the relevant data and articulate a satisfactory explanation with a rational connection between the facts found and the choice made.

TOPICS

judicial review of agency action

administrative law

health law

insurance

summary judgment

PRACTICE AREAS

administrative law

health law

insurance

civil procedure

QUESTIONS PRESENTED

1. Whether OPM's renewed denial of coverage for a replacement shower commode chair was arbitrary and capricious, an abuse of discretion, or otherwise contrary to law under the APA.
2. Whether the district court should grant summary judgment to the plaintiff and award reimbursement for the replacement shower commode chair.

HOLDINGS

1. OPM's decision to characterize the shower commode chair as a mere convenience and not medically necessary was arbitrary and capricious and an abuse of discretion.
2. The plaintiff was entitled to summary judgment, and OPM was not entitled to summary judgment, on the remaining shower-commode-chair claim.

KEY QUOTATIONS

“Apparently ignored were the opinions of Mr. Pellicano’s treating doctors who stated that the shower commode chair was a medical necessity to help avoid the risk of impaction and all of the medical complications that could follow if that occurred.” (at 16-17)

“In light of the above, the court agrees with the report of Judge Carlson which finds that, on the current record, the decision to characterize the shower commode chair as a mere “convenience” for Mr. Pellicano, who was a quadriplegic and unable to perform basic bodily functions unaided, is arbitrary and capricious and an abuse of discretion.” (at 17-18)

FACTUAL BACKGROUND

Michael Pellicano suffered a spinal-cord injury that rendered him quadriplegic and dependent on assistance for daily living. His treating physician determined that a specialized shower commode chair was medically necessary to permit a caregiver-assisted bowel regimen and showering, functions necessary to avoid serious medical complications and infection. OPM repeatedly denied coverage for a replacement chair, characterizing it as a personal convenience despite extensive treatment records, treating-physician opinions, prior coverage of the same type of equipment, and evidence of Pellicano's severe functional limitations.

PROCEDURAL HISTORY

Pellicano initially sought judicial review of five OPM coverage denials. Two claims were dismissed as untimely, and three claims were remanded for further administrative proceedings. The district court initially granted summary judgment to OPM, but the Third Circuit affirmed as to the other claims and vacated and remanded the judgment concerning preauthorization for a replacement shower commode chair. After a further remand to OPM and a new agency decision, the parties filed renewed cross-motions for summary judgment. The district court adopted the magistrate judge's recommendation, denied OPM's motion, granted Pellicano's motion, and awarded the amount sought for reimbursement of the replacement chair.

DISPOSITION

other

CASES CITED

- Brown v. Astrue, 649 F.3d 193, 195 (3d Cir. 2011)
- Rieder v. Apfel, 115 F. Supp. 2d 496, 499 (M.D. Pa. 2000)
- United States v. Raddatz, 447 U.S. 667, 676 (1980)
- Univac Dental Co. v. Dentsply International, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)
- Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987)
- Pellicano v. Office of Personnel Management, 2022 WL 621692 (3d Cir. Mar. 3, 2022)
- Christ the King Manor, Inc. v. Secretary, U.S. Department of Health & Human Services, 730 F.3d 291, 305 (3d Cir. 2013)

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