

SUPREME COURT OF GEORGIA

Feminist Women's Health Center v. Burgess, 282 Ga. 433

651 S.E.2d 36 (2007) · No. S07A1039 · Decided September 24, 2007

SUMMARY

The Supreme Court of Georgia reversed the dismissal of a challenge to Georgia Medicaid regulations denying coverage for medically necessary abortions except when the mother's life would be endangered or the pregnancy resulted from rape or incest. The court held that medical providers had third-party standing to assert the rights of Medicaid-eligible patients and that the patient claimant was not required to exhaust administrative remedies because no adequate administrative remedy was available.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Georgia                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Thompson, Justice; All remaining Justices                                                                                                                                                                                                                                            |
| JURISDICTION          | Georgia                                                                                                                                                                                                                                                                              |
| DECIDED               | September 24, 2007                                                                                                                                                                                                                                                                   |
| DOCKET                | S07A1039                                                                                                                                                                                                                                                                             |
| DISPOSITION           | reversed                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Appeal from an order dismissing a complaint for declaratory and injunctive relief challenging Georgia Medicaid regulations that excluded coverage for medically necessary abortions except when the mother's life would be endangered or the pregnancy resulted from rape or incest. |
| STANDARD OF REVIEW    | De novo review of the trial court's dismissal of the constitutional and declaratory-relief complaint.                                                                                                                                                                                |
| PRECEDENTIAL VALUE    | Published Georgia Supreme Court opinion; precedential.                                                                                                                                                                                                                               |
| PARTIES               | Feminist Women's Health Center, Medical provider appellants, Leslie Roe v. Burgess, Commissioner of the Department of Community Health, Members of the Board of the Department of Community Health, Director of the Division of Medical Assistance                                   |

TOPICS

medicare medicaid

exhaustion of remedies

constitutional law

health law

judicial review of agency action

## PRACTICE AREAS

constitutional law

Medicaid

health law

civil rights

administrative law

remedies

## QUESTIONS PRESENTED

1. Whether medical providers have third-party standing to assert the constitutional rights of Medicaid-eligible patients challenging the State's denial of Medicaid reimbursement for medically necessary abortions.
2. Whether a Medicaid-eligible patient must exhaust administrative remedies before challenging the constitutionality of the Medicaid plan when the agency has no procedure to hear the constitutional challenge and lacks authority to grant the requested relief.

## HOLDINGS

1. Medical providers have third-party standing to assert the constitutional rights of their Medicaid-eligible patients in challenging the State's denial of Medicaid reimbursement for medically necessary abortions when the providers suffer a direct financial injury, have a close relationship with the patients, and the patients face significant hindrances to asserting their own rights.
2. Exhaustion of administrative remedies is not required when the agency provides no procedure for hearing the constitutional challenge and cannot provide the remedy sought.

## KEY QUOTATIONS

*“To successfully establish third-party standing, a federal litigant must have suffered an “injury in fact,” thus giving him or her a sufficiently concrete interest in the outcome of the issue in dispute; the litigant must have a close relation to the third party; and there must exist some hindrance to the third party's ability to protect his or her own interests.”* (282 Ga. at 435; 651 S.E.2d at 38)

*“Appellees may not avoid judicial review for want of exhaustion of administrative remedies where the very rules of the department preclude both hearing and the remedy sought.”* (282 Ga. at 436; 651 S.E.2d at 40)

## FACTUAL BACKGROUND

Georgia's Medicaid program covered medically necessary services for eligible persons but reimbursed abortion services only when continuing the pregnancy would endanger the mother's life or when the pregnancy resulted from rape or incest. Medical providers who performed medically necessary abortions for Medicaid-eligible women alleged that they had not been reimbursed and would continue to provide unreimbursed services. Leslie Roe, a Medicaid-eligible woman with spina bifida and paralysis, alleged that she lacked the funds for a medically necessary abortion.

## PROCEDURAL HISTORY

The appellants challenged the Medicaid exclusion on Georgia constitutional privacy and equal-protection grounds. The trial court dismissed the medical providers' claims for lack of third-party standing and dismissed Roe's claims for failure to exhaust administrative remedies. The Supreme Court of Georgia reversed.

## DISPOSITION

reversed

## CASES CITED

- Ambles v. State, 259 Ga. 406, 383 S.E.2d 555 (1989)
- Lambeth v. State, 257 Ga. 15, 354 S.E.2d 144 (1987)
- Aldridge v. Georgia Hospitality, etc., Assn., 251 Ga. 234, 304 S.E.2d 708 (1983)
- Agan v. State, 272 Ga. 540, 533 S.E.2d 60 (2000)
- Bo Fancy Prods. v. Rabun County Bd. of Comm'rs, 267 Ga. 341, 344, 478 S.E.2d 373 (1996)
- County Court of Ulster v. Allen, 442 U.S. 140, 154-155 (1979)
- Hunt v. Washington State Apple Advertising Comm'n, 432 U.S. 333, 341 (1977)
- Barrows v. Jackson, 346 U.S. 249 (1953)
- Griswold v. Connecticut, 381 U.S. 479 (1965)
- Powers v. Ohio, 499 U.S. 400, 411 (1991)
- Craig v. Boren, 429 U.S. 190, 192-197 (1976)
- Singleton v. Wulff, 428 U.S. 106, 109, 112-118 (1976)
- Gonzales v. Carhart, 127 S. Ct. 1610 (2007)
- Ayotte v. Planned Parenthood, 546 U.S. 320 (2006)
- Dalton v. Little Rock Family Planning Servs., 516 U.S. 474 (1996)
- Planned Parenthood v. Casey, 505 U.S. 833 (1992)
- USA Payday Cash Advance Centers v. Oxendine, 262 Ga. App. 632, 634-635, 585 S.E.2d 924 (2003)
- Wilson v. Ledbetter, 260 Ga. 180, 182, 390 S.E.2d 846 (1990)
- Moss v. Central State Hospital, 255 Ga. 403, 404, 339 S.E.2d 226 (1986)
- Powell v. City of Snellville, 266 Ga. 315, 316, 467 S.E.2d 540 (1996)

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