DISTRICT OF COLUMBIA COURT OF APPEALS

D.C. Appleseed Center for Law & Justice, Inc. v. District of Columbia Department of Insurance, Securities, & Banking

54 A.3d 1188 (D.C. 2012) · Decided September 13, 2012

SUMMARY

The District of Columbia Court of Appeals reviewed a Department of Insurance, Securities, and Banking determination that Group Hospitalization and Medical Services, Inc.'s 2008 surplus was not excessive under the Medical Insurance Empowerment Amendment Act. The court held that D.C. Appleseed had standing, agreed that the Commissioner had misinterpreted the statutory standard and failed to provide adequate reasons, and remanded for further proceedings. The court affirmed deferral of review of GHMSI's 2009 and 2010 surpluses until July 31, 2012.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Ruiz, Senior Judge; Blackburne; Fisher; Rigsby; Ruiz
JURISDICTION	District of Columbia
DECIDED	September 13, 2012
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for review of a decision and order of the District of Columbia Department of Insurance, Securities, and Banking determining that Group Hospitalization and Medical Services, Inc.'s 2008 surplus was not excessive and deferring review of its 2009 and 2010 surpluses.
STANDARD OF REVIEW	The court reviewed the agency's order under the District of Columbia Administrative Procedure Act and would affirm unless the ruling was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Factual findings had to be supported by substantial evidence, and the agency's conclusions had to rationally flow from those findings. The court reviewed the statutory interpretation de novo because the agency had not expressly identified or explained the interpretive question.
PRECEDENTIAL VALUE	published opinion
PARTIES	D.C. Appleseed Center for Law & Justice, Inc. v. District of Columbia Department of Insurance, Securities, & Banking

TOPICS

judicial review of agency action · agency adjudication · statutory interpretation · administrative law · standard of review

PRACTICE AREAS

administrative law · insurance · health law · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether Appleseed had standing to petition for review of the DISB Commissioner's order.
2. Whether the MIEAA required the Commissioner to consider GHMSI's community health reinvestment obligation when determining whether its surplus was unreasonably large or excessive.
3. Whether the Commissioner's order adequately explained the factual and actuarial basis for selecting an 850 percent RBC-ACL ratio as the appropriate maximum surplus level.
4. Whether the Commissioner abused his discretion by deferring review of GHMSI's 2009 and 2010 surpluses until July 31, 2012.

HOLDINGS

1. Appleseed had standing to seek judicial review because it demonstrated injury in fact, a sufficient probability of redress, and an interest within the zone protected by the MIEAA. It had standing both as a GHMSI subscriber and as an organization.
2. The Commissioner must determine in tandem, rather than in separate sequential steps, whether GHMSI's surplus is unreasonably large and whether it is inconsistent with GHMSI's obligation to engage in community health reinvestment to the maximum feasible extent consistent with financial soundness and efficiency.
3. The Commissioner's determination that GHMSI's 2008 surplus was not unreasonably large or excessive could not be affirmed because the order did not adequately explain the selection of the 850 percent RBC-ACL ratio and did not apply the correct statutory criteria.
4. The Commissioner did not abuse his discretion by deferring review of GHMSI's 2009 and 2010 surpluses until July 31, 2012.

KEY QUOTATIONS

> *"A harmonious interpretation of the statute's language, viewed in its entirety, requires that a surplus determination hearing under § 31-3506(e)(2) keep both objectives in mind."* (1214-15)

> *"We hold that, as a matter of law, the two determinations required by § 31-3506(e)(2) — whether GHMSI's surplus is "unreasonably large" and whether the surplus is "inconsistent" with GHMSI's community health reinvestment obligations under § 31-3505.01 — must be made in tandem, not seriatim, to give full effect to the statute."* (1215)

> *"It will not do for a court to be compelled to guess at the theory underlying the agency's action; nor can a court be expected to chisel that which must be precise from what the agency has left vague and indecisive."* (1216-17)

FACTUAL BACKGROUND

GHMSI, a nonprofit health and medical services corporation serving subscribers in the District of Columbia, Maryland, and northern Virginia, had a 2008 surplus of approximately $687 million and an RBC-ACL ratio of 845 percent. Following enactment of the Medical Insurance Empowerment Amendment Act, DISB held a public hearing and received competing actuarial analyses concerning the surplus needed for GHMSI's financial soundness. The Commissioner concluded that an 850 percent RBC-ACL ratio was necessary and that GHMSI's 845 percent ratio was neither unreasonably large nor excessive, without separately considering the statutory obligation to reinvest in community health to the maximum feasible extent consistent with financial soundness and efficiency.

PROCEDURAL HISTORY

The DISB Commissioner conducted a public hearing concerning GHMSI's 2008 surplus and issued a final decision on October 29, 2010, concluding that the surplus was not excessive and ordering a later review of future surpluses by July 31, 2012. Appleseed petitioned the District of Columbia Court of Appeals for review. The court held that Appleseed had standing, reversed the determination concerning the 2008 surplus, affirmed the deferral of review of the 2009 and 2010 surpluses, and remanded for further proceedings.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The Department must interpret the MIEAA consistently with the court's framework, considering community health reinvestment to the maximum feasible extent consistent with financial soundness and efficiency. It must then redetermine whether GHMSI's surplus was unreasonably large or excessive and provide a more complete explanation of the reasoning supporting its determination.

CASES CITED

- J.C. & Associates v. District of Columbia Board of Appeals & Review, 778 A.2d 296, 301 (D.C. 2001)
- Timus v. District of Columbia Department of Human Rights, 633 A.2d 751, 756 (D.C. 1993) (en banc)
- Powell v. District of Columbia Housing Authority, 818 A.2d 188, 192-93 (D.C. 2003)
- Grayson v. AT&T Corp., 15 A.3d 219, 229, 233-34 (D.C. 2011) (en banc)
- Basiliko v. District of Columbia, 283 A.2d 816, 818 (D.C. 1971)
- Miller v. District of Columbia Board of Zoning Adjustment, 948 A.2d 571, 574-75 (D.C. 2008)
- Friends of Tilden Park, Inc. v. District of Columbia, 806 A.2d 1201, 1207, 1210-13 (D.C. 2002)
- Environmental Defense Fund, Inc. v. Hardin, 428 F.2d 1093, 1095-97 (D.C. Cir. 1970)

- Clarke v. Securities Industry Association, 479 U.S. 388, 399 (1987)
- Havens Realty Corp. v. Coleman, 455 U.S. 363, 378-79 (1982)
- Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252, 261-63 (1977)
- Sierra Club v. Morton, 405 U.S. 727, 739 (1972)
- Abigail Alliance for Better Access to Developmental Drugs v. Eschenbach, 469 F.3d 129, 132-33 (D.C. Cir. 2006)
- American Society for the Prevention of Cruelty to Animals v. Feld, 659 F.3d 13, 19, 25-27 (D.C. Cir. 2011)
- Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984)
- Pannell-Pringle v. District of Columbia Department of Employment Services, 806 A.2d 209, 211 (D.C. 2002)
- Colbert v. District of Columbia Department of Employment Services, 933 A.2d 817, 819 (D.C. 2007)
- Coumaris v. District of Columbia Alcoholic Beverage Control Board, 660 A.2d 896, 899 (D.C. 1995)
- In re D.K., 26 A.3d 731, 734 (D.C. 2011)
- Washington Metropolitan Area Transit Authority v. District of Columbia Department of Employment Services, 992 A.2d 1276, 1280 (D.C. 2010)
- Mills v. District of Columbia Department of Employment Services, 838 A.2d 325, 328 (D.C. 2003)
- SEC v. Chenery Corp., 332 U.S. 194, 196-97 (1947)
- Great Lakes Gas Transmission Ltd. Partnership v. FERC, 984 F.2d 426, 432 (D.C. Cir. 1993)
- NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010)
- Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co., 463 U.S. 29, 43 (1983)
- Thomas v. District of Columbia Department of Employment Services, 547 A.2d 1034, 1038 (D.C. 1988)
