

SUPREME COURT OF VERMONT

In re Appeal of D'Antonio

182 Vt. 599 (2007) · Decided September 5, 2007

SUMMARY

The Vermont Supreme Court reviewed a Human Services Board decision requiring Medicaid transportation reimbursement for a child's medically necessary out-of-state specialist appointments. The Court held that the Secretary of Human Services has authority to remand Board decisions when necessary to develop the record, but concluded that the remand in this case lacked a legal basis because the Board's findings were supported by the evidence and the Office had not rebutted the claimant's showing. The Court reversed the Secretary's decision and reinstated the Board's determination.

CASE DETAILS

COURT	Supreme Court of Vermont
JURISDICTION	Vermont
DECIDED	September 5, 2007
DISPOSITION	reversed
PROCEDURAL POSTURE	Carol D'Antonio appealed a Secretary of Human Services order modifying and remanding a Human Services Board Medicaid transportation decision. The Office of Vermont Health Access cross-appealed, arguing that the Secretary had authority to remand and that the Board should have reconsidered its decision in light of the remand and additional evidence.
STANDARD OF REVIEW	The Secretary reviews Human Services Board Medicaid decisions under 3 V.S.A. § 3091(h)(1)(A), must uphold factual findings supported by any credible evidence in the record, and may reverse or modify decisions when the Board's findings lack record support or the decision implicates the validity or applicability of an agency policy or rule.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion; precedential.
PARTIES	Carol D'Antonio, Office of Vermont Health Access v. Office of Vermont Health Access, Carol D'Antonio

TOPICS

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QUESTIONS PRESENTED

1. Whether the Secretary of Human Services has authority under 3 V.S.A. § 3091(h)(1)(A) to remand a Human Services Board Medicaid decision for further factual development.
2. Whether the Secretary had a legal basis to modify and remand the Board's order where the record contained evidence supporting the Board's finding that the out-of-state medical appointments were medically necessary.
3. Whether the Board erred in refusing to rely on the Office's additional submission concerning local providers, and whether any error was harmless.

HOLDINGS

1. The Secretary's statutory authority to reverse or modify a Board decision includes the authority to remand the decision for further findings when necessary to develop the record.
2. The Secretary lacked a legal basis to reverse and remand the Board's decision because the record contained evidence supporting the Board's finding that the out-of-state appointments were medically necessary.
3. Any error in excluding or failing to analyze the Office's additional submission was harmless because the submission did not address continuity of care and would not have rebutted the petitioner's prima facie showing.

KEY QUOTATIONS

“The same reasoning applies here, and thus we hold that the Secretary’s power to “reverse or modify” Board decisions includes the authority to remand when necessary to develop the record.” (601)

“Ultimately, the Board’s decision was supported by ample evidence submitted by petitioner, and there was no legal basis for the Secretary to reverse and remand the decision.” (602)

FACTUAL BACKGROUND

J.D., a child with autism, autoimmune disease, dietary issues, and developmental delays, received specialized treatment from out-of-state physicians in Maryland and New York. Medicaid had paid transportation costs for those appointments for seven consecutive years, but the Office denied reimbursement for a March 2005 trip after asserting that comparable services were available in Vermont. D'Antonio submitted medical evidence concerning the necessity and specialized nature of the out-of-state treatment, while the Office submitted only general statistics and lists of local providers without addressing J.D.'s specific needs or continuity of care.

PROCEDURAL HISTORY

The Office denied reimbursement for transportation expenses associated with the petitioner's son's out-of-state medical appointments. After a fair hearing, the Human Services Board reversed the denial and ordered reimbursement. The Secretary of Human Services modified and remanded the Board's decision for further proceedings; the Board declined to reconsider, concluding that the remand exceeded the Secretary's authority. The Vermont Supreme Court held that the Secretary had authority to remand when necessary, but reversed the Secretary's remand because the record contained sufficient evidence supporting the Board's decision and no legal basis existed for disturbing it.

DISPOSITION

reversed

CASES CITED

- Burlington Elec. Dep't v. Dep't of Taxes, 154 Vt. 332, 335-36, 576 A.2d 450, 452 (1990)
- Sargent v. Town of Randolph Fire Dep't, 2007 VT 56, ¶ 9, 182 Vt. 546, 928 A.2d 525 (mem.)
- Judicial Watch, Inc. v. State, 2005 VT 108, ¶ 16, 179 Vt. 214, 892 A.2d 191
- Burroughs v. West Windsor Bd. of Sch. Dirs., 141 Vt. 234, 237-38, 446 A.2d 377, 379-80 (1982)
- Jacobus v. Dep't of PATH, 2004 VT 70, ¶ 7, 177 Vt. 496, 857 A.2d 785
- In re Potter, 2003 VT 101, ¶ 10, 176 Vt. 574, 838 A.2d 105