

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D22-718

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NANCY E. WRIGHT,

Appellant,

v.

AGENCY FOR HEALTH CARE  
ADMINISTRATION,

Appellee.

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On appeal from the Circuit Court for Leon County.  
John C. Cooper, Judge.

June 14, 2023

B.L. THOMAS, J.

Nancy Wright appeals a decision granting AHCA's motion for summary judgment, ruling that the agency was not required to publish its Medicaid "fair-hearing" final orders with Division of Administrative Hearings ("DOAH").

Appellant represents Medicaid recipients in Medicaid fair hearings. Fair-hearing final orders are only available through public-record requests, under section 119.01(1). Appellant asserts that AHCA fair-hearing final orders must be published and publicly available pursuant to section 120.53, Florida Statutes. Appellant asserts that section 120.569, Florida Statutes, governs proceedings that affect substantial interests, and because fair

hearings affect the party's substantial interest in Medicaid, fair hearings are governed by section 120.569. Appellant further argues that proceedings affecting substantial interest are also governed by section 120.57, Florida Statutes, and orders under section 120.57 must be published under section 120.53. Thus, according to Appellant, fair hearings, as proceedings under section 120.57, must be published pursuant to section 120.53. Finally, Appellant argues that section 409.285(2) does not provide AHCA with an exemption from section 120.57, Florida Statutes, because section 409.285 does not have express language exempting these orders from sections 120.569 and 120.57.

The trial court disagreed with Appellant. The court interpreted section 409.285(2)(b) to exempt AHCA from exempted from sections 120.569 and 120.57. We agree.

It is not the province of the judiciary to ignore discernible legislative intent. Rather, our duty is to correctly read a statute in context, respectful of legislative aims and the intent of the elected branch empowered to enact substantive law. Section 120.53 requires administrative agencies to publish certain final orders with DOAH. The final orders included are final orders from proceedings under sections 120.57 or 120.573; final orders from proceedings under section 120.57(4) that include a statement of agency policy; declaratory statements issued by the agency; and final orders from proceedings under section 120.56 or 120.574. § 120.53(2)(a)–(d), Fla. Stat. Medicaid fair hearings are not included under section 120.573, which concerns the “mediation of disputes,” or section 120.57(4), which concerns “informal dispositions,” or declaratory statements, or section 120.56, which concerns rule challenges, or finally section 120.574 which concerns summary hearings. Additionally, fair hearings are not included under section 120.57, because, by enacting section 409.285(2), the legislature intended to establish a fair-hearing process outside of sections 120.569 and 120.57.

Section 120.57 provides administrative agencies with additional procedures which do not apply to Medicaid fair hearings. § 120.57(1)–(5), Fla. Stat. For example, section 409.285(2)(b) exempts AHCA from the use of an administrative

law judge; therefore, all subsections in section 120.57 regarding administrative law judges are inapplicable to fair hearings.

Section 409.285(2) specifically governs AHCA's authority regarding Medicaid fair hearings. It states that "[a]ppeals related to Medicaid programs directly administered by [AHCA] . . . must be directed to the agency *in the manner and form prescribed by the agency.*" (emphasis added). This provides AHCA the authority to proscribe procedures for appeals separately from the manner provided in sections 120.569 and 120.57. Section 409.285(2)(a) also provides AHCA with the exclusive authority for the manner and procedure of fair hearings. § 409.285(2)(a), Fla. Stat. ("The hearing authority for appeals . . . may be the Secretary of Health Care Administration, a panel of agency official, or a hearing officer appointed for that purpose.").

Further, section 409.285(2)(b) requires that fair hearings comply with federal regulations and requirements:

*Notwithstanding ss. 120.569 and 120.57, hearings conducted by [AHCA] pursuant to this subsection are subject to federal regulations and requirements relating to Medicaid appeals, are exempt from the uniform rules of procedure under s. 120.54(5) and are not required to be conducted by an administrative law judge assigned by the Division of Administrative Hearings.*

§ 409.285(2)(b), Fla. Stat. (emphasis added).

The legislature's use of "notwithstanding" provides Medicaid fair hearings an exemption from any requirements under sections 120.569 and 120.57, Florida Statutes. *Castro v. Sec'y of Homeland Sec.*, 472 F.3d 1334, 1338 (11th Cir. 2006) (holding that the notwithstanding language in the Aviation Transportation Security Act indicated the Department of Homeland Security/Transportation Security Administration could implement hiring standards and conditions of employment regardless of whether they were inconsistent with the federal Rehabilitation Act).

Additionally, the legislature requires AHCA to comply with federal regulations and requirements regarding Medicaid appeals.

See 42 C.F.R. §§ 431.200-250. Federal law presents its own unique requirements relating to Medicaid fair hearings. See e.g. *Sch. Bd. Palm Beach Cnty. v. Survivors Charter Schs., Inc.*, 3 So. 3d 1220, 1234 (Fla. 2009) (holding that when the legislature provides comprehensive, detailed statutory schemes separate from the Administrative Procedure Act, the statutory scheme should be followed). Federal Medicaid regulations provide a comprehensive, detailed scheme, including state-plan requirements, a state agency’s role in the hearing system, and a requirement that the state agency inform a Medicaid applicant or beneficiary to his rights regarding a fair hearing. 42 C.F.R. §§ 431.200-206. Further, federal Medicaid regulations provide specific requirements regarding content of notices to Medicaid beneficiaries, details when a hearing is required, procedural requirements on how to conduct the fair hearing, a requirement of which matters are considered at the hearing, and the procedural rights of the applicant or beneficiary. 42 C.F.R. §§ 431.210, .220, .240, .242.

Moreover, Medicaid fair-hearing proceedings are de novo, ultimately based on a Medicaid-recipient’s specific, detailed, and highly confidential health circumstances. These final orders do not and cannot establish legal precedent, because relevant health and medical circumstances must be redacted before being released to the public and therefore, the public final orders do not have facts which may be compared to other cases. See *U.S. Fire Ins. Co. v. J.S.U.B., Inc.*, 979 So. 2d 871, 882 (Fla. 2007) (“[W]hether a decision is binding on another is dependent upon there being similar facts and legal issues.”); 21 C.J.S. *What constitutes precedent* § 186 (2023) (“A ‘precedent’ is a decision considered as authority for a similar case arising on a similar question of law.”). This context also supports our holding and the trial court’s ruling that the legislature did not intend to require AHCA to publish the orders under section 120.53.

AFFIRMED.

ROBERTS and BILBREY, JJ., concur.

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***Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.***

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