IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

LITTLE SISTERS OF THE POOR, et al.,

Respondents,

v.

MISSOURI DEPARTMENT OF SOCIAL SERVICES and MO HEALTHNET DIVISION,

Appellants.

DOCKET NUMBER WD82935

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: August 18, 2020

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Patricia S. Joyce, Judge

JUDGES

Division Four: Mitchell, P.J., and Newton and Ardini, JJ. CONCURRING.

ATTORNEYS

Harvey M. Tettlebaum and Emily M. Park, HUSCH BLACKWELL LLP, Jefferson City, MO; Richard D. Watters and Richard W. Hill, LASHLEY & BAER, P.C., St. Louis, MO; and Matthew D. Turner, ARMSTRONG TEASDALE LLP, Jefferson City, MO, Attorneys for Respondents.

Eric S. Schmitt, Attorney General, Jeremiah J. Morgan, Deputy Attorney General – Civil, and Marie Claire Dwyer, Assistant Attorney General, Jefferson City, MO, Attorneys for Appellants.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

LITTLE SISTERS OF THE POOR, et al., Respondents,
v.
MISSOURI DEPARTMENT OF SOCIAL SERVICES and MO HEALTHNET DIVISION, Appellants.

WD82935 **Cole County**

Before Division Four Judges: Karen King Mitchell, Presiding Judge, and Thomas H. Newton and Edward R. Ardini, Jr., Judges

The Missouri Department of Social Services (DSS) and MO HealthNet Division (MHD) appeal from the circuit court's entry of judgment adopting a decision of the Administrative Hearing Commission and finding that MHD exceeded its statutory authority by implementing a Medicaid reimbursement rate reduction for nursing facilities using a specific dollar amount, rather than a percentage, and by promulgating a regulation to implement that rate reduction. DSS and MHD argue that the circuit court improperly treated the matter as judicial review of a contested case under the Missouri Administrative Procedures Act and, as a result, they were not permitted to introduce evidence relevant to the court's determination. DSS and MHD also raise challenges on the merits of the circuit court's decision, but, because we believe the circuit court did not have authority to conduct judicial review of a contested case, we do not reach the merits of the underlying issues. Instead, we reverse and remand the matter to the circuit court to allow Nursing Homes to amend their petition to seek a declaratory judgment, rather than judicial review of a contested case.

REVERSED AND REMANDED.

Division Four holds:

1. To be entitled to contested case judicial review in the circuit court, a petitioner must be aggrieved by a final decision that determines the "legal rights, duties or privileges of specific parties."

2. The AHC lacks jurisdiction to rule on the validity of agency regulations or constitutional claims or defenses, so when a party brings such a claim or defense before the AHC, the AHC is unable to determine the legal rights, duties or privileges of the parties with respect to that claim or defense. As a result, any decision the AHC issues on such claims are merely advisory and do not constitute a final decision in a contested case. And, without a final decision in a contested case, an aggrieved party is not entitled to seek judicial review of a contested case but must, instead, seek a declaratory judgment.

3. Here, Nursing Homes sought to invalidate a regulation promulgated by DSS and MHD, so the AHC could not issue a final decision determining any legal rights, duties, or privileges of the parties, and its findings of fact and conclusions of law were nothing more than an advisory opinion. As to the only claim that does not involve the validity of a regulation, a constitutional defense was asserted. Accordingly, there was no final decision and Nursing Homes should have sought a declaratory judgment in the circuit court, rather than judicial review of a contested case.

Opinion by: Karen King Mitchell, Presiding Judge August 18, 2020

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