

Summary of SC99185, *Stephanie Doyle, et al. v. Jennifer Tidball, et al.*

Appeal from the Cole County circuit court, Judge Jon E. Beetem

Argued and submitted July 13, 2021; opinion issued July 22, 2021

Attorneys: The plaintiffs were represented by Charles W. Hatfield and Alixandra S. Cossette of Stinson LLP in Jefferson City, (573) 636-6263; Lowell D. Pearson, R. Ryan Harding, and Michael Martinich-Sauter of Husch Blackwell LLP in Jefferson City, (573) 635-9118; and Joel Ferber, Legal Services of Eastern Missouri in St. Louis, (314) 534-4200. The proposed intervenors were represented by Paul Martin and Elkin L. Kistner of Kistner, Hamilton, Elam & Martin, LLC in St. Louis, (314) 783-9873. The state was represented by Solicitor General D. John Sauer and Jesus Osete of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Missouri citizens eligible to enroll for Medicaid coverage under a new constitutional amendment expanding the class of eligible participants appeal from a circuit court's judgment finding the amendment never became effective because the initiative petition by which it was enacted was constitutionally invalid. In a unanimous per curiam decision that cannot be attributed to any one author, the Supreme Court of Missouri vacates the judgment and remands the cause. The initiative petition enacting Medicaid expansion did not violate the state constitution's ban on appropriation by initiative petition in that the constitutional amendment does not appropriate money and does not remove the general assembly's discretion in appropriating money to Missouri's Medicaid Program.

Facts: In the August 2020 election, Missouri voters passed an initiative petition to amend the Missouri Constitution. Article IV, section 36(c) expands Missouri's Medicaid program, making Missourians ages 19 to 65 whose annual income falls under a certain level eligible for coverage. Missouri's Medicaid program is known as MO HealthNet. In 2021, the general assembly appropriated funds to MO HealthNet for Fiscal Year 2022. The department of social services subsequently indicated it would not permit enrollment under the amendment because the appropriation bill did not expressly provide funds for Medicaid expansion. Under article IV, section 36(c), those eligible for coverage under the expansion could begin enrolling on July 1, 2021. Stephanie Doyle, Melinda Hille, and Autumn Stultz (collectively, "the plaintiffs") filed suit against the acting directors of the department of social services and the MO HealthNet division (collectively, "DSS") for declaratory and injunctive relief. In their two-count petition, the plaintiffs requested a declaration that DSS' refusal to implement the expansion is unlawful and that DSS was required to enroll individuals similarly situated to the plaintiffs beginning July 1, 2021. DSS opposed the petition and alleged several affirmative defenses, including that article IV, section 36(c) violates article III, section 51 of the Missouri Constitution in that it amounted to an appropriation by initiative petition. While the litigation was pending, Luke Barber and Christine Chaney (collectively, "the proposed intervenors") alleged a right to coverage under article IV, section 36(c) and sought to intervene, asserting the plaintiffs did not represent their interests. The circuit court overruled the proposed intervenors' motion. Following a hearing, the circuit court entered its judgment in DSS' favor. The circuit court concluded that, if article IV,

section 36(c) was validly enacted by initiative petition, any appropriation for Medicaid services would be available for all eligible individuals, including those eligible under the amendment's expanded coverage. However, the circuit court found article IV, section 36(c) was not validly enacted because, by practical necessity, Medicaid expansion required appropriation of funds, in violation of article III, section 51. The plaintiffs and the proposed intervenors appeal.

VACATED and REMANDED.

Court en banc holds: (1) The proposed intervenors failed to establish they were entitled to intervention as a matter of right. Applicants seeking intervention as a matter of right must show an interest relating to the subject of the action, that their ability to protect their interests is impaired or impeded, and that the existing parties are inadequately representing their interests. The plaintiffs and the proposed intervenors – as individuals eligible to enroll for Medicaid coverage pursuant to article IV, section 36(c) – share the same interests, and the arguments the proposed intervenors sought to make upon intervention were substantially similar to those raised by the plaintiffs. Accordingly, the circuit court did not err in overruling their motion to intervene.

(2) Article IV, section 36(c) does not violate article III, section 51's prohibition against appropriation by initiative petition. Article III, section 51 prohibits only initiatives that expressly appropriate money (other than newly created funds) for its purposes or initiatives that deprive the general assembly of discretion by requiring it to appropriate money for the initiative's purpose. Article IV, section 36(c) does not expressly appropriate money, and nothing in the provision requires the general assembly to authorize the expenditure and disbursement of a specific amount of money for a specified purpose. The general assembly maintains the discretion to decide whether and to what extent it will appropriate money for MO HealthNet programs. Accordingly, the circuit court erred in concluding article IV, section 36(c) is constitutionally invalid.

(3) Nothing in the appropriation bills limits the use of funds appropriated to MO HealthNet to provide coverage or services to individuals eligible for Medicaid only under article IV, section 36(c). House Bill Nos. 10 and 11 contain expressly stated purposes for each appropriation made to MO HealthNet. The bills fund services to all who are eligible for MO HealthNet; they do not purport to exclude those eligible only pursuant to article IV, section 36(c). DSS' argument that the appropriation bills limit MO HealthNet funding to individuals eligible prior to the enactment of Medicaid expansion conflicts with the plain language of those bills. Consequently, DSS has appropriation authority to provide services for all individuals eligible for MO HealthNet, including individuals eligible for coverage and services pursuant to article IV, section 36(c).