SUPREME COURT OF THE UNITED STATES

Syllabus

GOOD SAMARITAN HOSPITAL ET AL. *v.* SHALALA, SECRETARY OF HEALTH AND HUMAN SERVICES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 91–2079. Argued March 22, 1993—Decided June 7, 1993

Title 42 U. S. C. §1395f(b)(1) requires the Secretary of Health and Human Services to reimburse the lesser of the ``customary charges'' or the ``reasonable cost[s]'' of providers of health care services to Medicare beneficiaries, while §1395x(v)(1)(A) empowers the Secretary to issue regulations setting forth the methods to be used in computing reasonable costs, which may include the establishment of appropriate cost limits. Regulations issued pursuant to that authority impose such limits based on a range of factors designed to approximate the cost of providing general routine patient service, but permit various exceptions, exemptions, and adjustments to the limits. After their costs during the relevant period exceeded the corresponding cost limits, petitioner providers filed an administrative appeal challenging the limits' validity. In ruling for petitioners on expedited review, the District Court adopted their interpretation that 42 U. S. C. §1395x(v)(1)(A)(ii) (clause (ii))—which requires the regulations to ``provide for the making of suitable retroactive corrective adjustments where, for a provider of services for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive''—entitled them to reimbursement of all costs they could show to be reasonable, regardless of whether the costs surpassed the amount calculated under the regulations' cost limit schedule. In reversing, the Court of Appeals reasoned that petitioners' request for adjustments would amount to a retroactive change in the methods used to compute costs that would be invalid under *Bowen* v. *Georgetown University Hospital,* 488 U. S. 204. Instead, the court adopted the Secretary's interpretation that clause (ii) permits only a year-end book balancing to reconcile

the actual ``reasonable'' costs under the regulations with the interim, advance payments that the statute requires to be made during the year based on the provider's approximate, anticipatory estimates of what its reimbursable costs will be.

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Held: Clause (ii) does not require the Secretary to afford petitioners an opportunity to establish that they are entitled to reimbursement for costs in excess of the limits stated in the regulations. Pp. 6–18.

(a) Clause (ii)'s language does not itself clearly settle the matter at issue, but is ambiguous as to which of the parties' interpretations is correct. Pp. 6–9.

(b) While *Georgetown, supra,* eliminated across-the-board retroactive rulemaking from the scope of clause (ii), it did not foreclose either of the parties' interpretations of the statute. Pp. 10-11.

(c) Confronted with an ambiguous statutory provision, this Court generally will defer to a permissible interpretation espoused by the agency entrusted with its implementation, particularly when the agency's construction is contemporaneous. By providing in more than one instance for the year-end book-balancing adjustment that, in the Secretary's view, is mandated by clause (ii), regulations promulgated soon after Medicare's enactment support the Secretary's current approach. On the other hand, those regulations nowhere mentioned a mechanism for implementing the kind of substantive recalculation and deviation from approved methods suggested by petitioners. Moreover, the agency's development —and continued augmentation—of the various exceptions, exemptions, and adjustments to the cost limits is difficult to harmonize with an interpretation of clause (ii) that would give a provider the right to contest the application of any particular and statutorily authorized method to its own circumstances. Rather, it is consistent with a view that the cost limits by definition entailed generalizations that would benefit some subscribers while harming others, and with a desire to refine these approximations through the Secretary's creation of exceptions and exemptions. Pp. 11–13.

(d) The Court rejects petitioners' argument that any deference to the agency's current position is precluded by the fact that, over the years, the agency has shifted from a book-balancing approach to a retroactive rulemaking approach and then back again. The Secretary responds that such inconsistency is attributable to the lower courts' erroneous interpretations of clause (ii) and points out that the agency returned to its initial position following *Georgetown.* How much weight should be given to the agency's views in such a situation will depend on the facts of individual cases. Cf. *FEC* v. *Democratic Senatorial Campaign Committee,* 454 U. S. 27, 37. Pp. 13–15.

(e) In the circumstances of this case, the Court defers to the

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Secretary's interpretation of clause (ii). Her restrictive reading of the clause is at least as plausible as petitioners', closely fits the design of the statute as a whole and its objects and policy, and does not exceed her statutory authority, but comports with §1395x(v)(1)(A)'s broad delegation to her. Pp. 15–17.

952 F. 2d 1017, affirmed.

WHITE, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and BLACKMUN, O'CONNOR, KENNEDY, and THOMAS, JJ., joined. SOUTER, J., filed a dissenting opinion, in which STEVENS and SCALIA, JJ., joined.