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# **SUPREME COURT OF THE UNITED STATES**

Syllabus

**SHALALA, SECRETARY OF HEALTH AND HUMAN SERVICES v. GUERNSEY MEMORIAL HOSPITAL**  
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT  
No. 93-1251. Argued October 31, 1994—Decided March 6, 1995

After the refinancing of its bonded debt resulted in a "def-easance" loss for accounting purposes, respondent health care provider (hereinafter Hospital) determined that it was entitled to Medicare reimbursement for part of that loss. Although the Hospital contended that it should receive its full reimbursement in the year of the refinancing, the fiscal intermediary agreed with petitioner Secretary of Health and Human Services that the loss had to be amortized over the life of the Hospital's old bonds in accord with an informal Medicare reimbursement guideline, PRM §233. The District Court ultimately sustained the Secretary's position, but the Court of Appeals reversed. Interpreting the Secretary's Medicare regulations, 42 CFR pt. 413, to require reimbursement according to generally accepted accounting principles (GAAP), the latter court concluded that, because PRM §233 departed from GAAP, it effected a substantive change in the regulations and was void by reason of the Secretary's failure to issue it in accordance with the notice-and-comment provisions of the Administrative Procedure Act (APA).

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*Held:*

1. The Secretary is not required to adhere to GAAP in making provider reimbursement determinations. Pp. 3-8.

(a) The Medicare regulations do not require reimbursement according to GAAP. The Secretary's position that 42 CFR §413.20(a)—which specifies, *inter alia*, that "[t]he principles of cost reimbursement require that providers maintain sufficient financial records . . . for proper determination of costs," and that "[s]tandardized definitions, accounting, statistics, and reporting practices that are widely accepted in the hospital and related fields are followed"—ensures the existence of adequate provider records but does not dictate the Secretary's own reimbursement determinations is supported by the regulation's text and the overall structure of the regulations and is therefore entitled to deference as a reasonable regulatory interpretation. Moreover, §413.24—which requires that a provider's cost data be based on the accrual basis of accounting—does not mandate reimbursement according to GAAP, since GAAP is not the only form of accrual accounting. In fact, PRM §233 reflects a different accrual method. Pp. 4-7.

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(b) The Secretary's reading of her regulations is consistent with the Medicare statute, which does not require adherence to GAAP, but merely instructs that, in establishing methods for determining reimbursable costs, she should "consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such principles) . . .," 42 U. S. C. §1395x(v)(1)(A). Nor is there any basis for suggesting that the Secretary has a statutory duty to promulgate regulations that address every conceivable question in the process of determining equitable reimbursement. To the extent that §1395x(v)(1)(A)'s broad delegation of authority to her imposes a rulemaking obligation, it is one she has without doubt discharged by issuing comprehensive and intricate regulations that address a wide range of reimbursement questions and by relying upon an elaborate adjudicative structure to resolve particular details not specifically addressed by regulation. The APA does not require that all the specific applications of a rule evolve by further, more precise rules rather than by adjudication, and the Secretary's mode of determining benefits by both rulemaking and adjudication is a proper exercise of her statutory mandate. Pp. 7-8.

2. The Secretary's failure to follow the APA notice-and-comment provisions in issuing PRM §233 does not invalidate that guideline. Pp. 9-14.

(a) It was proper for the Secretary to issue a guideline or interpretive rule in determining that defeasance losses should be amortized. PRM §233 is the Secretary's means of implementing the statute's mandate that the Medicare program bear neither more nor less than its fair share of reimbursement costs, 42 U. S. C. §1395x(v)(1)(A)(i), and the regulatory requirement that only the actual cost of services rendered to beneficiaries during a given year be reimbursed, 42 CFR §413.9. As such, PRM §233 is a prototypical example of an interpretive rule issued by an agency to advise the public of its construction of the statutes and rules it administers. Interpretive rules do not require notice-and-comment, although they also do not have the force and effect of law and are not accorded that weight in the adjudicatory process. APA rulemaking would be required if PRM §233 adopted a new position inconsistent with any of the Secretary's existing regulations. However, because the Secretary's regulations do not bind her to make Medicare reimbursements in accordance with GAAP, her determination in PRM §233 to depart from GAAP by requiring bond defeasance losses to be amortized does not amount to a substantive change to the regulations. Pp. 9-12.

(b) An examination of the nature and objectives of GAAP—

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which does not necessarily parallel economic reality, encompasses all of the changing conventions, rules, and procedures that define accepted accounting practice at a particular point in time, and consists of multiple sources, any number of which might present conflicting treatments of a particular accounting question—illustrates the unlikelihood that the Secretary would choose to impose upon herself the duty to go through the time-consuming rulemaking process whenever she disagreed with any announcements or changes in GAAP and wished to depart from them. Pp. 12–14.

996 F. 2d 830, reversed.

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