Fordham Urban Law Journal

Volume 6 | Number 1 Article 7

1977

Case Note: Constitutional Law - Fair Hearing - A Provider of Services Has a Right to Challenge a Determination of Medicaid Benefits for its Patients

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Constitutional Law—Fair Hearing—A Provider of Services Has a Right to Challenge a Determination of Medicaid Benefits for its Patients. *Peninsula General Nursing Home v. Sugarman*, 57 App. Div. 2d 268, 394 N.Y.S.2d 644 (1st Dep't 1977)

Jacob Stupler, an alleged indigent, was enrolled in the federal Medicare program which reimbursed the petitioner, Peninsula General Nursing Home, for the cost of medical care and services rendered to him.[1] When federal benefits were terminated, petitioner promptly applied for Medicaid coverage on behalf of Mr. Stupler pursuant to the New York State Medical Assistance for Needy Persons Plan.[2] The Social Services Department of the City of New York denied the application because Mr. Stupler had sold his house less than one year before the date of his application for aid. Social Services Law § 366(1)(e) provides that a transfer of property within one year of the date of application for aid creates a presumption that the transfer was for the purpose of qualifying for aid. This presumption would render an applicant ineligible.[3]

The nursing home, faced with the prospect of receiving no compensation for the services it had already rendered to Mr. Stupler, requested a hearing before the Department of Social Services to challenge the denial of the aid application.[4] The Department denied this request, ruling that the Social Services Law allows only the recipient of aid or his family to obtain review.[5] Petitioner instituted the present suit to challenge the constitutionality of that Social Services provision on the grounds that the state was taking away an earned property right without a fair hearing. The nursing home

1. Peninsula General Nursing Home v. Sugarman, 57 App. Div. 2d 268, 394 N.Y.S.2d 644 (1st Dep't 1977).

2. N.Y. Soc. Serv. Law §§ 363-69 *et seq.* (McKinney 1976).

3. N.Y. Soc. Serv. Law § 366(1)(e) (McKinney 1976). The issue of whether the sale of Mr. Stupler's home comes under the homestead exemption of the N.Y. Soc. Serv. Law § 366(2)(a)(1) (McKinney 1976) was not considered by the appellate division, which decided that the more important issue was the constitutionality of the rules governing hearings on decisions made by the Social Services Department. 57 App. Div. 2d at 270, 394 N.Y.S.2d at 646.

4. 57 App. Div. 2d at 270, 394 N.Y.S.2d at 646. The family had originally requested a hearing, which was scheduled by the Department of Social Services for Oct. 15, 1974, and the nursing home knew this, but Mr. Stupler died in the interim and the hearing was cancelled at the family's insistance. Mr. Stupler's estate also declined to pursue the matter.

5. *Id.*; N.Y. Soc. Serv. Law § 366a(4) (McKinney 1976); 18 N.Y. Codes, Rules & Regulations 358.4 (1975).

asked that it be paid with public funds for the services it rendered to Mr. Stupler from the time of the exhaustion of Medicare benefits until his death.[6]

The trial court ruled that Social Services Law section 366 and the regulations thereunder do not afford the petitioner due process and are therefore unconstitutional. It enjoined the Commissioner of Social Services from enforcing the provisions of the statute without giving the petitioner an opportunity for a hearing on the denial of public assistance to its patient.[7] The appellate division affirmed, ruling that the petitioner should obtain the hearing it requested.[8]

The landmark case dealing with the right of public assistance recipients to a fair hearing is *Goldberg v. Kelly*.[9] In *Goldberg*, New York City residents who were participating in the Aid to Families with Dependent Children program brought suit to challenge the procedure for notice and hearing in connection with the termination of aid. The United States Supreme Court held that a pre-termination evidentiary hearing was required when public assistance payments were discontinued and that the procedure established by the City of New York for dealing with such matters was inadequate to meet the requirements of the Constitution.[10]

Goldberg clarified the interest which is vested in an individual recipient of direct public assistance. However, the right of an institution, such as a nursing home, to appeal a decision directed against one of its patients presents a more complicated question. The crucial issue presented in the instant case was whether the petitioner had an ascertainable property interest in the Medicaid reimbursement payments, rather than just a mere expectation of receiving such funds.

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6. 57 App. Div. 2d at 270, 394 N.Y.S.2d at 646. Originally, the petitioner had instituted an action pursuant to N.Y. CIV. PRAC. LAW & RULES Art. 78 (McKinney 1976), but the proper use of an Article 78 proceeding is to review and correct the determination of a state, not to attack the constitutionality of a statute. *See* N.Y. CIV. PRAC. LAW & RULES § 103 (McKinney 1976); Battle v. Lavine, 37 N.Y.2d 742, 337 N.E.2d 132, 374 N.Y.S.2d 621 (1975); Gold v. Lomenzo, 29 N.Y.2d 468, 280 N.E.2d 640, 329 N.Y.S.2d 805 (1972). The court did, however, use its statutory discretion to treat the suit as one for declaratory judgment.

7. N.Y.L.J., June 5, 1975, p. 2, col. 6, at 16, col. 5.

8. 57 App. Div. 2d at 277, 394 N.Y.S.2d at 650-51.

9. 397 U.S. 254 (1970).

10. *Id.* at 268. The New York procedure in question, which was set out in N.Y. Social Welfare Law § 353(2) (McKinney 1966), had provided for a hearing after the termination of aid. (Note that the N.Y. SOCIAL WELFARE LAW was changed to the N.Y. SOC. SERV. LAW in 1967).

Ross v. Wisconsin Dep't of Health[11] is indicative of the courts' concern to insure due process when a state makes a determination which adversely affects the continued operation of a medical facility. In *Ross*, the State of Wisconsin determined that a nursing home had failed to meet state regulations and was unfit to house Medicaid patients. The state then attempted to remove the Medicaid patients to a more suitable facility. The court observed that plaintiff nursing home had a genuine property interest in retaining public assistance patients and receiving public funds. It ruled that to the extent the Wisconsin Health Law did not allow the nursing home a fair hearing, it was unconstitutional.[12]

Case v. Weinberger[13] involved an attempt to enjoin the Secretary of Health, Education and Welfare from removing a nursing home's Medicare patients and relocating them in another facility. HEW charged that the facility failed to meet the requirements of the Life Safety Code.[14] The Second Circuit Court of Appeals, in weighing the concern for the safety of the patients against the property interest involved, held that at least a post-removal evidentiary hearing was required.[15]

In *Coral Gables Convalescent Home v. Richadson*,[16] a Florida nursing home challenged HEW's determination that for nearly two years it received Medicare reimbursements to which it was not entitled. The finding was made on the basis of an audit conducted by Aetna Life & Casualty, HEW's fiscal intermediary between itself and the medical facility. Aetna, on the authority of HEW, withheld fifty percent of the payments due to the plaintiff for current Medi-

11. 369 F. Supp. 570 (E.D. Wisc. 1973). *Ross* was certified as a class action and brought by Regina Ross individually and in behalf of all other Wisconsin nursing homes similarly situated, to challenge the validity of a statute and certain administrative rules of the Wisconsin Department of Health.

12. *Id.* at 572.

13. 523 F.2d 602 (2d Cir. 1975).

14. The code is published by the National Fire Protection Association and is used to judge the safety of nursing home facilities as mandated by Title XIX of the Social Security Act, 42 U.S.C. §1396a(a)(28)(F)(i) (1970).

15. 523 F.2d at 609-11. HEW delegated its power to inspect the nursing home facilities to the various social services agencies of the states. It should also be noted that the Regional Directors of HEW can waive violations of the code if strict compliance with it would result in unreasonable hardship to the nursing home, provided that such waiver would not adversely affect the health and safety of the patients in the home. In *Case*, the possibility of a waiver was denied.

16. 340 F. Supp. 646 (S.D. Fla. 1972).

care services to set off and recoup the amounts allegedly overpaid. Plaintiff's complaint stated that HEW did not give it the opportunity for an administrative hearing.[17] The United States District Court for the Southern District of Florida found that the failure to afford the plaintiff "at least a post-removal evidentiary hearing constituted a denial of due process,"[18] and ruled that the "amounts which have been deducted as offsets from current payments since November, 1970 have been unlawfully withheld."[19] The Medicare Act neither required nor proscribed a hearing in such a situation,[20] but the *Coral Gables* court concluded that where the exercise of a statutory power adversely affects property rights, it should read the requirement of a fair hearing into the statute.[21]

Two recent New York cases dealing with the New York Medical Assistance for Needy Persons Plan agree in principle with the *Coral Gables* holding. *Birnbaum v. Whalen*[22] found that when confronted with a rate audit challenge, a hearing is "a procedural safeguard of a degree commensurate with the importance of petitioner's interest affected by the respondents' actions."[23] Similarly, *Briody v. Whalen*[24] held that a retroactive determination that an institution such as a nursing home is liable for a substantial sum of money constitutes a "taking" in the constitutional sense and requires a due process hearing.[25]

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17. *Id.* at 648.

18. *Id.* at 650.

19. *Id.*

20. *Id.*; 42 U.S.C. § 1395ii (1970), *as amended* (Supp. V 1975) incorporates the review provision of the Social Security Act, 42 U.S.C. § 405(h) which reads in pertinent part: "findings and decisions of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided."

21. An interesting New York case which also stands for the proposition that a lack of statutory language will not preclude a fair hearing is *Hecht v. Monaghan*, 307 N.Y. 461, 468, 121 N.E.2d 421, 424 (1954).

22. 85 Misc. 2d 512, 380 N.Y.S.2d 590 (Sup. Ct. 1976).

23. *Id.* at 515, 380 N.Y.S.2d at 592-93. Previous decisions of the New York courts have held that no property interest exists when a medical facility seeks to challenge prospective Medicaid rates or future payments. *See* Sigety v. Ingraham, 29 N.Y. 2d 110, 272 N.E.2d 524, 324 N.Y.S.2d 10 (1971); White Plains Nursing Home v. Whalen, 53 App. Div. 2d 926, 385 N.Y.S.2d 392 (3rd Dep't 1976). *Birnbaum* is distinguished from these cases because it concerned a rate audit which was retroactively applied creating a financial liability for the plaintiff.

24. 89 Misc. 2d 296, 390 N.Y.S.2d 814 (Sup. Ct. 1977).

25. *Id.* at 298, 390 N.Y.S.2d at 815.

Howe Ave. Nursing Home, Inc. v. Nafus[26] was the first case to deal specifically with the constitutionality of Social Services Law Section 366, the provision at issue in the *Peninsula* case. In *Howe*, a nursing home sued a patient and the County of Westchester to compel the county to pay the medical, hospital and nursing home bills of the patient. The New York Supreme Court[27] enjoined the county from denying the patient medical assistance, and directed the county to hold an administrative hearing with the nursing home participating as a necessary party.[28] The Appellate Division annulled the injunction, but affirmed the fair hearing requirement:

> [S]ection 366 of the Social Services Law, and the regulations adopted pursuant thereto, to the extent that they fail to furnish medical providers an opportunity for a fair hearing (after county denial of eligibility), constitute a denial of due process and violate the Fourteenth Amendment to the United States Constitution and the corresponding provisions of the State Constitution . . . .[29]

Peninsula relied on *Howe* in ruling that petitioner in the instant dispute had been denied due process protections.[30] The *Peninsula* court noted *Howe's* clear and definitive discussion of the inequities of Social Services Law Section 366. The court agreed with *Howe* that Section 366 completely ignored the rights of a provider of services which participated in the public assistance program, and concluded that the decision therein was a logical extension of the scope of due process.[31]

In reaching the merits of the principal case,[32] the Appellate Divi-

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26. 54 App. Div. 2d 686, 387 N.Y.S.2d 272 (2d Dep't 1976).

27. 85 Misc. 2d 196, 379 N.Y.S.2d 338 (Sup. Ct. 1976).

28. *Id.* at 198, 379 N.Y.S.2d at 341.

29. 54 App. Div. 2d at 687, 387 N.Y.S.2d at 274. It is curious that though the court in *Howe* made such a significant constitutional decision concerning the Social Services Law, it did not concern itself with the nature of the hearing which it ordered to be held. It seemed satisfied to rely on the idea that as long as some kind of hearing was held, then the interests of all the parties would be afforded protection.

30. 57 App. Div. 2d at 272, 394 N.Y.S.2d at 647.

31. *Id.* at 271-72, 394 N.Y.S.2d at 647.

32. *Id.* at 270-71, 394 N.Y.S.2d at 646. The court decided to hear the case over the objections of the respondents by ruling that although the law does not give the facility the means to obtain an administrative review of a local agency determination, it nevertheless has standing to request such a review.

The court did not consider the standing requirement at length but announced that it would accept the broadening view of the standing requirement enunciated by the N.Y. Court of Appeals in *Boryszewski v. Brydges*, 37 N.Y.2d 361, 364, 334 N.E.2d 579, 581, 372 N.Y.S. 2d

sion observed that it must concentrate on the "nature" of the interest at stake to determine petitioner's right to due process protections.[33] It recognized the dilemma which faced the provider of services. The appellate court noted that nursing home proprietors "have a financial interest which obligates the State to pay for services rendered to public assistance patients."[34] The majority in *Peninsula* believed that the true beneficiaries of the Social Services Law are those with limited resources. Yet, this should not allow the Department of Social Services to ignore the rights of the other parties directly involved in the dispensing of public assistance to the needy.[35] By forbidding the provider of services to seek an administrative remedy, the Department of Social Services forces it to make a difficult choice:

> [A]n administrative adjudication of ineligibility . . . foist[s] upon the provider of services, assuming lack of cooperation by the patient or his family for one reason or another, the choice, where feasible, of ceasing to provide services or, in providing services, to undertake the burden of a lawsuit to recover for same.[36]

The majority in *Peninsula* emphasized the statutory declaration contained in Social Services Law Section 363, which it concluded was a "declaration of objects" by the legislature.[37] The section states:

> In carrying out this program every effort shall be made to promote maximum public awareness of the availability of, and procedure for obtaining, such

623, 626 (1975), which ruled that denial of standing in such a situation would erect a barrier against any judicial scrutiny of legislative action. The court in *Peninsula* believed that although the nursing home was appealing a decision that affected a third party, this would not be fatal to its standing. The court said that the injury was traceable directly to the regulations of the agency involved and was not based on mere speculation. The petitioner was able to demonstrate a sufficient, perceptable connection between the denial of Medicaid eligibility and injury to its continued business operations. The nursing home and the patient had a combined interest in seeing that the Medicaid assistance was available and thus put forth a sufficient case or controversy to provide the necessary standing. *See* American Medical Ass'n v. Mathews, 429 F. Supp. 1179 (E.D. Ill. 1977).

33. 57 App. Div. 2d at 274, 394 N.Y.S.2d at 648. *Peninsula* made this observation based on the decision in *Board of Regents v. Roth*, 408 U.S. 564, 571 (1972), where the Supreme Court elaborated on the necessary criteria involved in a due process problem.

34. 57 App. Div. 2d at 274, 394 N.Y.S.2d at 648.

35. *Id.* at 275, 394 N.Y.S.2d at 649.

36. *Id.*

37. *Id.*

> assistance, and to facilitate the application for, and the provision of such medical assistance.[38]

The majority believed that this legislative scheme mandates the cooperation of the Social Services Department and the provider of services to see that the indigent patient is not denied adequate medical care. Without this relationship, the court believed, the program could not operate properly. Thus, each party involved has a vital interest in promoting and safeguarding this cooperative effort.[39]

The court found support for its interpretation in *St. Clare's Hospital v. Breslin*,[40] which had observed that the legislative purpose in passing the Medical Services Plan was to insure treatment for those who cannot afford it and to assure payment to the hospital providing such services if the patient is indigent.[41] The *Peninsula* court noted that "the achievement of this purpose" requires the cooperation of all interested parties, including the provider of services.[42]

The Appellate Division concluded that a genuine property interest was jeopardized in the instant case. Its rationale was that the nursing home was not challenging prospective Medicaid rates or payments to which it had only an expectancy interest; rather it was seeking the proper compensation which it had earned once it rendered services.[43] The court believed that a medical facility is entitled to the guarantee of due process when any genuine property interest is affected by legislative action.[44]

Peninsula acknowledged *Ross* and *Coral Gables* as indicative of a continued policy in both the state and federal courts to expand fifth and fourteenth amendment protections. It also observed that those decisions were meant to extend the fair hearing requirement

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38. N.Y. Soc. Serv. Law § 363 (McKinney 1976).

39. 57 App. Div. 2d at 275, 394 N.Y.S.2d at 649.

40. 19 App. Div. 2d 922, 243 N.Y.S.2d 968 (3d Dep't 1963).

41. *Id.* at 923, 243 N.Y.S.2d at 970-71.

42. 57 App. Div. 2d at 275, 394 N.Y.S.2d at 649. The court believed that the providers of services, because of the nature of their activities, are in the best position to furnish information to applicants for public assistance and to help them in the application process.

43. *Id.* at 271, 394 N.Y.S.2d at 647.

44. *Id.* at 277, 394 N.Y.S.2d at 650. It is pertinent to note the ruling of the United States Supreme Court in *Wolff v. McDonnell*, 418 U.S. 539 (1974), that once a property interest is recognized, "some kind of hearing is required at some time before a person is finally deprived of his property interests." *Id.* at 557-58.

to situations where the slightest threat to property is involved.[45] The majority believed it appropriate to embrace this policy in deciding the instant dispute. Thus, the court concluded that the Social Services Law must be modified in order that adequate protection be afforded to all those involved in the medical assistance program.[46]

Judge Lane, dissenting in *Peninsula*, believed that the majority's remedy was overly broad and unnecessary since the nursing home had another remedy at law—a plenary suit against both the patient's estate and the Department of Social Services to recover the value of the services rendered to the patient.[47] Judge Lane maintained that so long as an administrative agency acts within reasonable limits the courts are bound to give interpretations of such agency great weight in their deliberations. He concluded that the Department's finding of patient ineligibility was well within its prerogative.[48]

The dissent also declared that the claim of the nursing home must fail on its merits. It emphasized that a provider of services is entitled to reimbursement only if goods or services are rendered to an "eligible," as defined by the Social Services Law.[49] If the patient does not qualify, the facility's remedy is to seek reimbursement from the patient himself. The relationship of the patient and nursing home, the dissent stated, is akin to that which exists between a "purchaser and seller."[50] Judge Lane believed that the relief which the petitioner should seek is not that which can be afforded "through the medium of administrative review," but through the proper avenue of a breach of contract suit.[51]

Judge Lane maintained that the Peninsula Nursing Home was not in the same position as the facilities in *Ross* and *Coral Gables*. In those cases, the nursing homes were threatened with the removal

45. 57 App. Div. 2d at 272-75, 394 N.Y.S.2d at 647-48. For a good review of the history of the fair hearing requirement *see* Friendly, *Some Kind of Hearing*, 123 U. PA. L. REV. 1267 (1975).

46. 57 App. Div. 2d at 277, 394 N.Y.S.2d at 650.

47. *Id.* at 279-80, 394 N.Y.S.2d at 652 (Lane, J., dissenting).

48. *Id.* at 279, 394 N.Y.S.2d at 652. *See also* Howard v. Wyman, 28 N.Y.2d 434, 438, 271 N.E.2d 528, 530, 322 N.Y.S.2d 683, 686 (1971); Sigety v. Ingraham, 29 N.Y.2d 110, 114, 272 N.E.2d 524, 526, 324 N.Y.S.2d 10, 13 (1971).

49. N.Y.SOC. SERV. LAW § 366 (McKinney 1976).

50. 57 App. Div. 2d at 280-81, 394 N.Y.S.2d at 653 (Lane, J., dissenting).

51. *Id.* at 280, 394 N.Y.S.2d at 652.

of a tangible benefit to which they were clearly entitled. They were forced to rebut allegations with which they were intimately concerned.[52] This was not the situation in the instant case, because the petitioner's right to compensation depended upon the eligibility of the patient. In Judge Lane's opinion, Peninsula Nursing Home had no more than a " 'unilateral expectation' of a benefit which is not a property interest protected by procedural due process . . . ."[53]

The reasoning of the dissent misses a vital point noted by the majority.[54] That is, once services have been rendered to public assistance patients, a substantial interest in state reimbursement arises since a nursing home cannot hope to remain financially sound without these payments.[55] Commenting on the dissent's point of view, the majority stated:

> To frustrate petitioner's claim to a fair hearing by the Department of Social Services . . . is to exault form over substance and to render suspect the balance of property interests and equities envisioned in the legislative enactment to obtain requisite medical assistance for needy persons.[56]

The difficulty with the dissent's suggestion that the medical provider bring a suit against the patient is that it can require an indigent to bear the heavy burden of litigation when, through an administrative error, he is judged ineligible for aid. The majority's desire to resolve such disputes through an administrative review would seek to prevent this occurrence.

Several New York courts have carefully scrutinized suits by medical providers to insure that indigents are not unjustly burdened. In *Knickerbocker Hospital v. Downing*,[57] a hospital brought suit against the parents of a child to whom it had provided services. When the child was admitted, the parents indicated that they possessed a certificate stating that the child was eligible for medical assistance.[58] However, when the hospital submitted its claim to the

52. *Id.*

53. *Id.* at 280, 394 N.Y.S.2d at 653.

54. This observation was adopted by the *Peninsula* court from the concurring opinion of Judge Reynolds in *Ross v. Wisconsin Dep't of Health*, 369 F. Supp. at 574.

55. 57 App. Div. 2d at 274, 394 N.Y.S.2d at 648. Interestingly, both the majority and the dissent in *Peninsula* take note of the concurring opinion of Judge Reynolds in *Ross*. Each is able to interpret material in that opinion as supporting its point of view.

56. *Id.* at 277, 394 N.Y.S.2d at 650.

57. 65 Misc. 2d 278, 317 N.Y.S.2d 688 (Civ. Ct. 1970).

58. *Id.* at 279, 317 N.Y.S.2d at 689.

Department of Social Services, it was denied for reasons which were never clearly defined.[59] The Civil Court of New York County found that the child was admitted to the hospital not on the credit of the parents but "on the credit and responsibility of the Commissioner of Social Services."[60] The court believed that the lawsuit was misdirected and that the hospital should have proceeded against the Commissioner.[61] Barring fraud or other irregularity, the existence of the certificate demonstrated that the child was eligible for public assistance. When the Department of Social Services denied aid to the child without a proper explanation, it precipitated an inequitable result. In such a situation, the court explained, it is highly probable that the supposed ineligible may be truly indigent.[62] The legislative pattern makes it clear that the hospital must look to the Department of Social Services for payment, and not pursue poor people for money they do not have.[63] The *Knickerbocker* court concluded that to hold otherwise would place "a burden on the indigent recipient not contemplated by the statute."[64]

Similarly, *Society of New York Hospital v. Blake*[65] involved a situation where the plaintiff hospital commenced a lawsuit to recover the reasonable value of medical services rendered to the patient Charles Blake. The Department of Social Services, a third-party defendant, had rejected the patient's application for public assistance because the net income of his family exceeded the statutory limit. In ruling against the Department's motion for summary judgment, the court concluded that the Department's finding in respect to Mr. Blake was erroneous. The court reasoned that Medicaid was designed to assist poor people of limited resources; and to place the burden of litigation upon them, was much too harsh a

59. *Id.* The hospital bill was returned by the Social Services Department marked "Disapproved Insurance." The court noted that no one had bothered to explain the meaning of that term.

60. *Id.* at 280, 317 N.Y.S.2d at 690. The hospital had claimed that since the Department of Social Services failed to honor its bill, then the defendant is liable based on the liability of parents for necessities furnished to their infant children. The *Knickerbocker* court rejected this reasoning. *Id.* at 279, 317 N.Y.S.2d at 689-90.

61. *Id.* at 280, 317 N.Y.S. 2d at 690.

62. *Id.* at 281, 317 N.Y.S.2d at 691.

63. *Id.* at 281, 317 N.Y.S.2d at 692.

64. *Id.*

65. 73 Misc. 2d 305, 341 N.Y.S.2d 506 (Civ. Ct. 1973).

procedure.[66] It noted that in such a situation the dispute is not simply between the Department and the patient, but "requires the adjudication of the rights and responsibilities of the supplier of medical services as well."[67] The court concluded by pointing out that situation in *Knickerbocker* "would be true of many cases arising in this area."[68]

It has been said that the provider of medical services as well as the Department of Social Services has the obligation of helping those in need of Medicaid assistance.[69] As such, it is difficult to prove that the hospital or other medical services provider does not have a sufficient interest to challenge a determination of the Department which concerns the eligibility of one of its patients. If a medical facility can be held responsible when it fails to enroll a patient for Medicaid,[70] then by analogy it should be given the right to a fair hearing to challenge a determination of ineligibility. A medical facility's interest in Medicaid reimbursement is an important part of its continued operation and an interest which is akin to a property right. As such, the problem gives rise to "interpretation of questions of constitutional dimensions . . . ."[71]

The decision in *Peninsula* marks a continued expansion of the meaning of due process and seeks to insure that all parties who are directly involved in the dispensing of medical care to the needy are protected.

Leonard J. Morreale, Jr.

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66. *Id.* at 308, 341 N.Y.S.2d at 510.

67. *Id.* at 308, 341 N.Y.S.2d at 511.

68. *Id.* For a further discussion of suits by medical providers against patients when public assistance has been denied *see* Amsterdam Hosp. v. Cintron, 52 App. Div. 2d 404, 384 N.Y.S.2d 225 (3rd Dep't 1976) and Mt. Sinai Hosp. v. Kornegay, 75 Misc. 2d 302, 347 N.Y.S.2d 807 (Civ. Ct. 1973).

69. 75 Misc. 2d at 304, 347 N.Y.S.2d at 810. In *Mt. Sinai*, a hospital sued a mother for the care it had rendered to her and to her newborn child. The defendant's mother had filled out forms for public assistance at the hospital but they were not properly completed. The hospital, however, ignored this fact and did not seek to correct the deficiencies on the application. The court held that the hospital had a clear duty to ascertain and correct the difficulties encountered here, and that it was negligent in not doing so. Because of this finding, the court dismissed the suit against the defendant.

70. *Id.* at 305, 347 N.Y.S.2d at 810.

71. 57 App. Div. 2d at 281, 394 N.Y.S.2d at 653.