

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

EERIEANNA GOOD, an individual,)	Case No. CVCV054956
)	
Petitioner,)	
)	
v.)	
)	Ruling on Respondent’s
IOWA DEPARTMENT OF HUMAN SERVICES,)	Motion to Dismiss
an independent executive-branch agency)	
of the State of Iowa,)	
)	
Respondent.)	

On November 14, 2017, Respondent’s Motion to Dismiss came on for hearing.

Respondent Iowa Department of Human Services (“DHS”) appeared through Assistant Iowa Attorney General Matthew K. Gillespie and John McCormally. Petitioner, Eerieanna Good (“Good”) appeared through her attorneys Seth A. Horvath and Rita Bettis. After reviewing the file and hearing the evidence and arguments of counsel, the Court enters the following Ruling:

STATEMENT OF THE CASE

On January 27, 2017, Good requested Medicaid preapproval of expenses of an orchiectomy for treatment of gender dysphoria. AmeriHealth Caritas of Iowa (“AmeriHealth”) denied Good’s request. Good appealed AmeriHealth’s decision to DHS. After an administrative hearing, an ALJ issued a proposed decision affirming AmeriHealth. On intra-agency appeal, the Director of DHS adopted the ALJ’s ruling as the final agency decision based on the Department’s application of Iowa Admin. Code r. 441.78.1(4) (the “Regulation”) prohibiting funding of sex reassignment surgery to the facts of Good’s case.

On September 21, 2017, Good filed a Petition for Judicial Review seeking to vacate the decision of DHS and to enjoin enforcement of the Regulation. In Count I of the petition, Good

alleges the decision of DHS should be reversed under Iowa Code section 17A.19(10)(b) of the Iowa Administrative Procedure Act (“IAPA”) due to the prohibition against gender-identity discrimination of Iowa Code section 216, 7(1)(a) of the Iowa Civil Rights Act (“ICRA”). Count II alleges the decision should be reversed under section 17A.19(10)(b) of the IAPA due to the prohibition against sex discrimination of Iowa Code section 216, 7(1)(a) of the ICRA. In Count III, Good claims the decision should be reversed under section 17A.19(10)(a) because it violates her right to equal protection under Article I, section 6 of the Iowa Constitution. Count IV alleges the decision should be reversed under section 17A.19(10)(k) because it has a disproportionate negative impact on Good’s private rights. Count V of the petition alleges the decision is unreasonable, arbitrary, capricious, and an abuse of discretion under Section 17A.19(10)(n) and should be reversed. In addition, the petition requests injunctive and declaratory relief.

On October 9, 2017, DHS filed a pre-answer Motion to Dismiss Good’s Petition for Judicial Review pursuant to the Iowa R. Civ. Pro. 1.421(1)(f) for failure to state a claim upon which relief can be granted. DHS contends *Smith v. Rasmussen*, 249 F. 3d 755 (8th Cir. 2001) is controlling. DHS also asserts Iowa Medicaid and DHS is not a public accommodation under the IRCA.

ANALYSIS

A motion to dismiss admits the well-pleaded facts of the petition, but not the conclusions. The Court should grant a motion to dismiss for failure to state a claim only if the petition shows the petitioner is not entitled to relief under any state of facts. *Ostrem v. Prideco Secure Loan Fund, LP*, 841 N.W.2d 882, 891 (Iowa 2014).

Smith is not dispositive. In *Smith's* 42 U.S.C. § 1983 action, the Eighth Circuit held the Regulation prohibiting funding of sex reassignment surgery was reasonable and consistent with the Medicaid Act. *Smith*, 249 F.3d at 761. But *Smith* did not involve a challenge to the Regulation under the Equal Protection Clause of the Iowa Constitution or the ICRA. *Smith* was decided before the 2007 amendment to the ICRA prohibiting gender-identity discrimination. *Smith* did not consider or decide challenges to the Regulation or the application of the Regulation to the facts under the IAPA. The medical facts alleged in Good's petition are not the same as the facts considered by *Smith*. The issues presented by Good's petition should be decided on the merits by Iowa courts applying Iowa law and the Iowa Constitution.

The Court rejects DHS's contention that, as a matter of law, neither DHS nor Iowa Medicaid is a public accommodation within the meaning of section 216.2(13)(b) of the IRCA. According to the well-pleaded facts of the petition, DHS is alleged to be a unit of state government that offers the services and benefits of Iowa Medicaid to the public. Iowa Medicaid is the alleged service and benefit. DHS is the alleged public accommodation under the IRCA. This issue should be decided on the merits of the petition.

Accepting the well-pleaded facts of the petition as true, DHS did not establish that Good's Petition for Judicial Review fails to demonstrate the petitioner is not entitled to relief under any state of facts. DHS did not demonstrate the petition fails to state a claim upon which relief can be granted. Therefore, DHS's Motion to Dismiss should be denied. *Ostrem*, 841 N.W.2d at 891.

RULING

Respondent's Motion to Dismiss is overruled and denied. This case shall be heard on the merits based upon a review of the certified administrative record. A briefing schedule and oral argument shall be scheduled by separate order.

So Ordered.



State of Iowa Courts

Type: OTHER ORDER

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So Ordered

A handwritten signature in black ink, appearing to read "Arthur E. Gamble".

Arthur E. Gamble, Chief District Judge,
Fifth Judicial District of Iowa