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Due Process

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DUE PROCESS

N.Y. CONST. art. I, § 6:

No person shall be deprived of life, liberty or property without due process of law.

U.S. CONST. amend. V:

No person shall . . . be deprived of life, liberty, or property, without due process of law

U.S. CONST. amend. XIV, § 1:

No State shall . . . deprive to any person of life, liberty, or property, without due process of law

COURT OF APPEALS

Hope v. Perales¹
(decided May 5, 1994)

Petitioner, Commissioner of the New York State Department of Social Services, took appeal as of right asserting the constitutionality of New York's Prenatal Care Assistance Program [hereinafter PCAP].² Plaintiffs' action had challenged the validity of PCAP. The statute at issue provides funds for prenatal and post pregnancy care for women whose incomes are up to 185% above the federal poverty level;³ however, it fails to

1. 83 N.Y.2d 563, 634 N.E.2d 647, 611 N.Y.S.2d 811 (1994).

2. N.Y. PUB. HEALTH LAW §§ 2520-29 (McKinney 1993).

3. *Hope*, 83 N.Y.2d at 571, 634 N.E.2d at 184, 611 N.Y.S.2d at 812. See N.Y. PUB. HEALTH LAW §§ 2520-29. The statute provides funding for women who exceed the Medicaid eligibility standard. Section 2521 of the Public Health Law defines an eligible service recipient as "a pregnant, low-income woman, who is not otherwise eligible for medical assistance and whose

provide funds for “medically necessary abortions.”⁴ Plaintiffs asserted that the statute was a violation of the Due Process,⁵ Equal Protection,⁶ Aid to the Needy,⁷ and Public Health⁸ Clauses of the New York State Constitution. The New York Court of Appeals held that the PCAP statute is constitutional because it is rationally related to the Legislature’s objective in providing a means of reducing infant mortality.⁹

The PCAP program is best understood as it relates to the Medicaid program.¹⁰ Medicaid provides reimbursement from the federal government to states that fund necessary medical services to those who qualify,¹¹ whereas PCAP, created twenty years later in 1987, provides for prenatal and post pregnancy care to

income is one hundred eighty-five percent or less of the comparable federal income official poverty line” N.Y. PUB. HEALTH LAW § 2521.

4. *Hope*, 83 N.Y.2d at 571, 634 N.E.2d at 184, 611 N.Y.S.2d at 812.

5. N.Y. CONST. art. I, § 6. Section six provides in pertinent part: “No person shall be deprived of life, liberty or property without due process of law.” *Id.*

6. N.Y. CONST. art. I, § 11. Section eleven provides in pertinent part: “No person shall be denied the equal protection of the laws of this state or any subdivision thereof.” *Id.*

7. N.Y. CONST. art. XVII, § 1. Section one provides: “The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.” *Id.*

8. N.Y. CONST. art. XVII, § 3. Section three provides:

The protection and promotion of the health of the inhabitants of the state are matters of public concern and provision therefore shall be made by the state and by such of its subdivisions and in such manner, and by such means as the legislature shall from time to time determine.

Id.

9. *Hope*, 83 N.Y.2d at 571, 634 N.E.2d at 184, 611 N.Y.S.2d at 813.

10. *Id.* “PCAP is funded and administered through the Medicaid program.” *Id.* at 572 n.2, 634 N.E.2d at 185 n.2, 611 N.Y.S.2d at 813 n.2. Medicaid and PCAP differ in that Medicaid eligibility generally requires verification while a PCAP applicant is “immediately presumed eligible upon a preliminary showing to a qualified provider that her household income falls below 185% of the poverty level. Similarly, Medicaid applicants are required to exhaust certain household resources for eligibility, while PCAP applicants need only satisfy the income requirement.” *Id.* at 572-73, 634 N.E.2d at 185, 611 N.Y.S.2d at 813 (citations omitted).

11. *Id.* at 571-72, 634 N.E.2d at 184, 611 N.Y.S.2d at 812-13.

women who qualify.¹² The government requires that the program be “offer[ed] . . . to women with incomes at or below 133% of the poverty level.”¹³ However, New York’s PCAP statute goes further and “extend[s] eligibility up to 185% of the poverty level.”¹⁴ Although PCAP funds prenatal care, those services do not include the termination of pregnancy.¹⁵ However, an eligible

12. *Id.* at 572, 634 N.E.2d at 184-85, 611 N.Y.S.2d at 812-13.

13. *Id.* at 572, 634 N.E.2d at 184-85, 611 N.Y.S.2d at 813.

14. *Id.* at 572, 634 N.E.2d at 185, 611 N.Y.S.2d at 812-13. “Thus, in New York a single pregnant woman with annual income between \$9,840 and \$18,204 is eligible for PCAP. . . .” *Id.* at 571, 634 N.E.2d at 185, 611 N.Y.S.2d at 813. New York’s PCAP provides the maximum coverage authorized by the federal government to needy pregnant women for prenatal care and related services. *Id.* at 572, 634 N.E.2d at 185, 611 N.Y.S.2d at 813.

15. *Id.* Public Health Law § 2522 provides for the following prenatal services:

- (a) prenatal risk assessment;
- (b) prenatal care visits;
- (c) laboratory services;
- (d) health education for both parents regarding prenatal nutrition and other aspects of prenatal care, alcohol and tobacco use, substance abuse, use of medication, labor and delivery, family planning to prevent future unintended pregnancies, breast feeding, infant care and parenting;
- (e) referral for pediatric care;
- (f) referral for nutrition services including screening, education, counseling, follow-up and provision of services under the women, infants and children’s program and the supplemental nutrition assistance program;
- (g) mental health and related social services including screening and counseling;
- (h) transportation services for prenatal care services;
- (i) labor and delivery services;
- (j) post-partum services including family planning services;
- (k) inpatient care, specialty physician and clinic services which are necessary to assure a healthy delivery and recovery;
- (l) dental services;
- (m) emergency room services;
- (n) home care; and
- (o) pharmaceuticals.

N.Y. PUB. HEALTH LAW § 2522 (McKinney 1993).

recipient who elects to terminate her pregnancy may receive all post pregnancy services.¹⁶

New York merited its adoption and extension of such services to combat the state's high rate of infant mortalities and low birthweights as compared to the national averages.¹⁷ The New York Court of Appeals pointed out that studies have exhibited that infant mortality, neurological abnormalities, low birth weight, and premature birth can be "ameliorated" by proper care throughout pregnancy¹⁸ and the court stated "PCAP unquestionably is highly effective in meeting its objective."¹⁹

The court of appeals found no merits in the plaintiffs claims and, thus, reversed the trial and appellate courts' decisions.²⁰ The lower court held the statute unconstitutional, reasoning that it pressures low income women to elect childbirth rather than terminate the pregnancy,²¹ thus, enlarging the statute's coverage to include medically necessary abortions.²² The appellate division affirmed the trial court's ruling and concluded that the statute "abridged" a low-income woman's fundamental right to choose terminating the pregnancy over childbirth.²³

Before beginning its analysis, the court of appeals stated that the PCAP statute "plainly . . . satisfies Federal constitutional standards."²⁴ Moreover, the court noted that it is not the role of the court to agree or disagree with the motive of the legislature

16. *Hope*, 83 N.Y.2d at 572, 634 N.E.2d at 185, 611 N.Y.S.2d at 813. Under Public Health Law § 2521, eligible pregnant women "shall continue to be eligible for assistance, without regard to any change in income of the families of which they are members, through the end of the month in which a sixty day period which begins on the last day their pregnancies shall end." N.Y. PUB. HEALTH LAW § 2521 (McKinney 1993).

17. *Hope*, 83 N.Y.2d at 573, 634 N.E.2d at 185, 611 N.Y.S.2d at 813.

18. *Id.*

19. *Id.*

20. *Id.* at 574, 634 N.E.2d at 186, 611 N.Y.S.2d at 814.

21. *Id.*

22. *Id.*

23. *Id.* See *Hope v. Perales*, 189 A.D.2d 287, 595 N.Y.S.2d 948 (1st Dep't 1993) (per curiam). For a detailed analysis of the appellate division's decision, see *New York State Constitutional Decisions; 1993 Compilation*, 10 TOURO L. REV. 895 (1993).

24. 83 N.Y.2d at 574, 634 N.E.2d at 186, 611 N.Y.S.2d at 814.

when enacting a statute, rather the court only determines the statute's constitutionality.²⁵

In determining the constitutionality of a statute, the court held that a statute is entitled "to a strong presumption of constitutionality, and that plaintiffs bear the heavy burden of establishing the contrary beyond a reasonable doubt."²⁶ In addition, the court must determine whether there is a rational relationship to the Legislature's objective when enacting the statute.²⁷

In its analysis, the court addressed and rejected plaintiffs' claim that the PCAP statute was violative of due process and equal protection because it impeded an eligible woman's right to "reproductive choice."²⁸ The court noted that PCAP eligible

25. *Id.* at 575, 634 N.E.2d at 186, 611 N.Y.S.2d at 814.

26. *Id.* at 574-75, 634 N.E.2d at 186, 611 N.Y.S.2d at 814.

27. *See* *Golden v. Clark*, 76 N.Y.2d 618, 626, 564 N.E.2d 611, 615, 563 N.Y.S.2d 1, 5 (1990) (finding a New York City Charter provision that required elected officials, who possessed discretionary power, to forego specified political offices constitutional because it was rationally related to the legitimate State interest of eliminating conflicts of interest).

28. *Hope*, 83 N.Y.2d at 575, 634 N.E.2d at 187, 611 N.Y.S.2d at 815. Plaintiffs' contention was derived from two sources. First, Justice Brennan's dissenting opinions in *Harris v. McRae*, 448 U.S. 297 (1980) (Brennan, J., dissenting), and *Maher v. Roe*, 432 U.S. 526 (1977) (Brennan, J., dissenting). In his dissent, in *Harris*, Justice Brennan stated that the "denial of public funds for medically necessary abortions plainly intrudes upon this constitutionally protected [abortion] decision, for both by design and in effect it serves to coerce indigent pregnant women to bear children that they would otherwise elect not to have." *Id.* at 330. Second, some states have invalidated Medicaid funding schemes. *See, e.g., Committee to Defend Reproductive Rights v. Myers*, 625 P.2d 779, 799 (Cal. 1981) (holding that the restriction violates a woman's fundamental right to choose); *Moe v. Secretary of Admin. & Fin.*, 417 N.E.2d 387, 402 (Mass. 1981) (finding Medicaid funding for medically necessary abortions was a violation of the fundamental state due process right to choose to "bear or beget" a child); *Right to Choose v. Byrne*, 450 A.2d 925, 935 n.5 (N.J. 1982) (holding the state's statute limiting funding for medically necessary abortions was a violation of equal protection of the law under article I, paragraph I of the New Jersey Constitution); *Women's Health Ctr. of W. Va., Inc. v. Panepinto*, 446 S.E.2d 658, 667 (W. Va. 1993) (finding that a statute which restricted the use of Medicaid funds for abortions to "constitute undue government interference with the exercise of the federally protected right to terminate a pregnancy").

women do have the income to afford an abortion.²⁹ They “have income above the poverty level and need not exhaust any other resources [for] eligibility.”³⁰ Thus, the statute does not “make abortions any less accessible or less affordable for PCAP-eligible women.”³¹ Next, the court determined that the plaintiffs had not established that PCAP even “indirectly infringe[s],” upon the right to choose an abortion over childbirth, or vice versa.³² Nor had the plaintiffs produced any evidence of coercion, inducement or steering toward childbirth.³³ Therefore, their claims failed³⁴ because they did not overcome the strong presumption of constitutionality.³⁵

Similarly, the court of appeals rejected the notion that PCAP “penalizes women for exercising their right to choose.”³⁶ The court held that PCAP neither inhibits nor prevents a woman from making the choice to terminate her pregnancy, rather, it “simply

The New York Court of Appeals, in *Hope*, distinguished the aforementioned cases by noting that the people involved were Medicaid recipients and, by definition, financially indigent. *Hope*, 83 N.Y.2d at 577, 634 N.E.2d at 188, 611 N.Y.S.2d at 816. The recipients were lacking in the resources necessary to fund an abortion; thus, they relied on federal reimbursements. *Id.* In the case at bar, the recipients of PCAP were not ordinarily recipients of state assistance, and therefore, *had* the financial means to pay for an abortion. *Id.*

29. *Id.* at 575, 634 N.E.2d at 187, 611 N.Y.S.2d at 815.

30. *Id.* The court found this to be the distinguishing factor from other cases where the state courts found a Medicaid program does not fund for medically necessary abortions. Medicaid provides for the indigent, whereas PCAP is not ordinarily a recipient of state assistance. *Id.* The court noted that “the heart of plaintiffs’ challenge is that by funding certain childbirth services for these women, but not abortion, the Legislature has violated an obligation under the Due Process Clause not to influence the exercise of a fundamental right.” *Id.*

31. *Id.* at 575, 634 N.E.2d at 186-87, 611 N.Y.S.2d at 814-15.

32. *Id.* at 576, 634 N.E.2d at 187, 611 N.Y.S.2d at 815.

33. *Id.*

34. Although the court only addressed the due process claim in the opinion, it stated in footnote six that “[w]hile plaintiffs also assert[ed] a denial of equal protection, equal protection [was] at the core of their due process argument, and both challenges fail[ed] for much the same reasons.” *Id.* at 576 n.6, 634 N.E.2d at 187 n.6, 611 N.Y.S.2d at 815 n.6.

35. *Id.*

36. *Id.* at 577, 634 N.E.2d at 188, 611 N.Y.S.2d at 816.

fails to subsidize [the] abortion.”³⁷ The program still provides an eligible woman with services after the abortion;³⁸ terminating the pregnancy does not terminate the eligibility for service and care.³⁹

In addition to rejecting the plaintiffs’ due process and equal protection claims, the court briefly and concisely rejected the plaintiffs assertions that the statute violated the Aid to the Needy and Public Health Clauses of the New York State Constitution because it failed to provide for medically necessary abortions without regard to the woman’s financial or medical needs.⁴⁰ The court of appeals reiterated that PCAP recipients are not indigent, nor in need of medical assistance⁴¹ and that the statute’s purpose is to combat infant mortality.⁴² Rejecting these claims, the court reversed the order of the appellate division.

The court of appeals concluded that the PCAP statute is constitutional under both New York and Federal Constitutions because it is rationally related to the Legislature’s objective of preventing infant mortality by providing prenatal and post pregnancy care for low income women.⁴³

People v. Baxley⁴⁴
(decided June 30, 1994)

Defendant claimed that his criminal convictions were obtained in violation of his statutory rights under New York Criminal Procedure Law [hereinafter CPL] section 440.10⁴⁵ and his

37. *Id.*

38. *See* N.Y. PUB. HEALTH LAW § 2521.

39. *Hope*, 83 N.Y.2d at 577, 634 N.E.2d at 188, 611 N.Y.S.2d at 816.

40. *Id.* at 577-78, 634 N.E.2d at 188, 611 N.Y.S.2d at 816.

41. *Id.* at 578, 634 N.E.2d at 188, 611 N.Y.S.2d at 816.

42. *Id.*

43. *Id.*

44. 84 N.Y.2d 208, 639 N.E.2d 746, 616 N.Y.S.2d 7 (1994).

45. N.Y. CRIM. PROC. LAW. § 440.10 (McKinney 1994). This provision reads in pertinent part: