

STATE OF MICHIGAN
COURT OF APPEALS

GREATER LANSING AMBULATORY SURGERY
CENTER COMPANY, L.L.C., RICHARD
BESHORE, D.O., GREGORY MESSENGER,
M.D., DANIEL HUNT, D.O., MARK JONES,
D.O., JERRY GILROY, D.O., KEVIN LAVERY,
M.D., PAUL ERNEST, M.D., ANTHONY
SENSOLI, M.D., MARK RUSSELL, D.O., and
KENTON WATERBROOK, D.O.,

Plaintiffs-Appellees,

v

BLUE CROSS & BLUE SHIELD OF MICHIGAN,

Defendant-Appellant.

UNPUBLISHED
April 13, 1999

No. 206415
Wayne Circuit Court
LC No. 96-635927 CZ

Before: MacKenzie, P.J., and Gribbs and Wilder, JJ.

PER CURIAM.

Defendant appeals as of right from an order granting declaratory judgment and a permanent injunction in favor of plaintiffs in this case involving a medical provider. MCL 550.1101 *et seq*; MSA 24.660 (101) *et seq*. We reverse.

Defendant argues on appeal that, contrary to the trial court's ruling, it was permitted to make its own determinations of need when evaluating plaintiffs' application for participation, independent of the state's certificate of need. We agree. Although a trial court's ruling regarding a decision to grant injunctive relief is reviewed for an abuse of discretion, *Michigan State AFL-CIO v Secretary of State*, 230 Mich App 1, 14; 583 NW2d 701 (1998), rulings regarding questions of law in declaratory judgment actions are reviewed de novo. *Herald Co v Ann Arbor Pub Schools*, 224 Mich App 266, 271; 568 NW2d 411 (1997). Here, we find that the trial court erred in its determination that defendant could not deny plaintiffs participation status based upon its own determination of need. Defendant is required only to use its own "reasonable standards" in determining participation status. MCL 550.1502(8); MSA 24.660(502)(8).

In a factually similar case, *Psychological Services of Bloomfield Inc v Blue Cross & Blue Shield of Michigan*, 144 Mich App 182; 375 NW2d 382 (1985), a panel of this Court held that the defendant was not required to issue a provider number to the plaintiffs even though they had obtained a certificate of need from the state. This Court noted that the defendant's provider number only determines the source of payment and that plaintiffs were free to operate their clinic without a provider identification number. *Id* at 186. This Court reasoned that, even if the issuance of a certificate of need demonstrates a public need for plaintiff's facility, it does not demonstrate that defendant's subscribers need such a facility. *Id*.

Although not binding, we find the decision in *Psychological Services* persuasive and conclude that in this case defendant could deny plaintiffs a provider identification number based upon its own determination of need. *Id*. The trial court improperly entered the declaratory judgment and permanent injunction in this case.

Reversed.

/s/ Barbara B. MacKenzie

/s/ Roman S. Gibbs

/s/ Kurtis T. Wilder