
LEGAL UPDATE

Legal Services Division



Ground Floor, State Capitol Building

Des Moines, Iowa 50319

515.281.3566

IOWA SUPREME COURT DECISION — IOWA INDIVIDUAL HEALTH BENEFIT REINSURANCE ASSOCIATION ASSESSMENTS FOR STATE UNIVERSITIES

Legal Updates, prepared by the nonpartisan Legal Services Division of the Legislative Services Agency, provide summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic and are intended for use primarily by legislators, legislative staff, and other persons interested in legislative matters. The reader is cautioned against using information contained in a legal update to draw conclusions as to the legality of a particular behavior or set of circumstances and should not be interpreted as advocating a particular course of action.

Iowa Individual Health Benefit Reinsurance Ass'n v. State Univ. of Iowa, Iowa State Univ. of Sci. and Tech., and Univ. of N. Iowa

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No. 22-1213

www.iowacourts.gov/courtcases/18423/embed/SupremeCourtOpinion

Factual and Procedural Background. The Iowa Legislature passed the Individual Health Insurance Market Reform Act, 1995 Iowa Acts, Senate File 84 (codified at Iowa Code chapter 513C (1995)), which created the Iowa Individual Health Benefit Reinsurance Association (IIHBRA). Under the Act, all persons providing health benefit plans in Iowa are required to be members of IIHBRA. IIHBRA is authorized to assess each member based on information each member is required to annually submit to IIHBRA regarding the member's earned premiums and associated paid losses. IIHBRA uses the assessments to help equalize gains and losses of its members.

The State University of Iowa (UI), Iowa State University (ISU), and the University of Northern Iowa (UNI) provided self-funded health benefit plans to their respective employees. In 2011, IIHBRA assessed the universities pursuant to Iowa Code chapter 513C. The universities refused to pay, contending that they were not members of IIHBRA and that the statute, as applied to them, violated Article VII, section 1, of the Iowa Constitution, which prohibits the state from acting as a surety for another. IIHBRA sued the universities in November 2013, and following a bench trial was awarded over \$4 million in damages. The universities appealed, contending that the district court erred in concluding they were subject to assessment, and that the statutory scheme, as applied to them, violated Article VII, section 1, of the Iowa Constitution. IIHBRA filed a cross-appeal, asserting that the district court erred in not awarding additional damages including late fees and IIHBRA's costs and attorney fees.

Issues.

1. Whether the universities were statutorily required to be members of IIHBRA.
2. Whether the statutory scheme, as applied to the universities, violated Article VII, section 1, of the Iowa Constitution.
3. Whether IIHBRA should be granted attorney fees, costs, and late payment fees.

Holding. In a unanimous decision the Iowa Supreme Court (Court) held that the universities are members of IIHBRA as required by Iowa Code section 513C.10(1)(a) and the statutory scheme, as applied to the

universities, does not violate Article VII, section 1, of the Iowa Constitution. The Court further held that IHBRA is not entitled to attorney fees and costs, but is entitled to late payment fees.

Analysis.

Issue 1. Whether the universities are statutorily required to be members of IHBRA. Iowa Code section 513C.10(1)(a) states, in relevant part, “All persons that provide health benefit plans in this state including ... shall be members of the association.” Applying the principles of statutory interpretation, including determining the ordinary meaning of the statute, reading the statute as a whole, and considering the relationship between the language at issue and the other provisions of the statute, the Court explained that the universities are “persons” as defined by Iowa Code section 4.1(20), the universities provide “health benefit plans in this state,” and therefore the universities “shall be members of the association.” The Court found it immaterial that the universities were not insurers and did not provide individual policies because Iowa Code section 513C.10(6) provides that a “member is liable for its share of the assessment ... regardless of whether it participates in the individual insurance market.”

The universities argued that the phrase “[a]ll persons that provide health benefit plans in this state” was restricted to the persons specifically identified after the phrase “including” in Iowa Code section 513C.10(1)(a), and because the universities did not fall within the enumerated subcategories they were not members of IHBRA. The Court rejected this argument due to the restrictive interpretation of the word “including,” which the Court determined should instead be read to mean that the words following “including” are illustrative, rather than exhaustive. *Eyecare v. Dep’t of Hum. Servs.*, 770 N.W.2d 832, 838 (Iowa 2009). Accordingly, the court held that the universities were required to be members of IHBRA.

Issue 2. Whether the statutory scheme violates Article VII, section 1, of the Iowa Constitution. Article VII, section 1, of the Iowa Constitution states, “The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the State.”

Suretyship involves the obligation to make payments for the debts of another; however, under the statute, the universities were not paying the debts of private insurers but rather paying a primary liability created by statute and imposed on all persons providing health benefit plans. The Court explained that the universities were not acting as sureties because the assessments were not used to pay the debts of another; instead, the assessments were used to create a fund to spread the cost of high-risk health insurance policies for Iowans. *Iowa Individual Health Benefit Reins. v. State Univ. of Iowa*, 876 N.W.2d 800, 808 (Iowa 2016). The statutory scheme benefits the universities by allowing them to provide health benefit plans to their employees, and also benefits the state by facilitating health care coverage for all Iowans. The Court held that Iowa Code chapter 513C, requiring that the universities in their capacities as providers of health benefit plans shall be members of IHBRA, did not violate Article VII, section 1, of the Iowa Constitution.

Issue 3. Whether IHBRA should be granted late fees, attorney fees, and costs. The Court held that the universities must comply with IHBRA’s request for late payment fees in the amounts of \$512,758 against UNI, \$1,416,608 against ISU, and \$4,194,041 against UI. The court denied IHBRA’s request for attorney fees and costs.

The universities asserted that IHBRA was created by statute, and therefore its authority was limited to what was provided under the statute, and late payment fees were not authorized by statute in this case. The universities relied on Iowa Code section 513C.10(6), providing that IHBRA may charge members the “assessable loss plus [any] necessary operating expenses” and “additional expenses as provided by law,” and argued that late fees were not operating expenses or authorized additional expenses. However, Iowa Code section 513C.10(1)(b) provides that IHBRA shall be incorporated as a nonprofit corporation under Iowa Code chapter 504, and as such the provisions of Iowa Code chapter 504 apply. Iowa Code section 504.614 states that “[a] member may become liable to the corporation for dues, assessments, or fees.” Iowa Code section 504.302(17) empowers IHBRA to “[d]o all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the corporation.” The Court explained that the statutory authorization for “fees” against members could reasonably be argued to include late fees which are “necessary” or “convenient” to further the operation of IHBRA. Further, nothing in Iowa Code chapter 513C disallows or limits IHBRA’s ability to exercise the power provided in Iowa Code chapter 504 to assess late payment fees. Accordingly, the court held that the assessment of late fees was not inconsistent with the law.

The universities also assert there was insufficient evidence to establish the late payment fees, specifically whether IHBRA calculated the late fee at either a rate of one and one-half percent per month, or a rate of five percent per month. The Court held that the district court erred in declining to award IHBRA the five percent late payment fee because the universities had agreed that stipulated amounts should be imposed in this case. The stipulated amounts for the years 2010-2017 included additional damages in the form of a late payment fee in the amount of five percent per annum. Both parties agreed upon the stipulated amounts, and it was the intention of the parties when stipulating to such amounts to be bound by this agreement. According to the record, the universities agreed to the stipulated amounts, and therefore IHBRA was entitled to the five percent late payment fee.

Finally, IHBRA asserts that the district court erred in denying its request for attorney fees and costs. IHBRA contended that it was statutorily entitled to attorney fees. The Court explained that the attorney fees must be expressly and clearly authorized within the terms of the statute. The Court concluded Iowa Code section 513C.10(6) did not expressly and clearly authorize an award of attorney fees and costs. The statute provided that IHBRA's operating expenses may be included in assessments levied out proportionally among all members, but did not authorize the recovery of costs in litigation. Accordingly, the Court held that there was no statutory authorization for attorney fees and costs. Further, the Court also determined that there was no common law authorization for attorney fees and costs in this case.

LSA Staff Contact: Natalie Sherman, 515.725.2299 or natalie.sherman@legis.iowa.gov