



M., M. R. v. PROFE Ministerio de Salud

C. 576. XLIX.

Country: Argentina

Region: Americas

Year: 2013

Court: Supreme Court of Justice [Corte Suprema de Justicia de la Nación Argentina]

Health Topics: Chronic and noncommunicable diseases, Disabilities, Health care and health services, Health systems and financing, Hospitals, Medicines

Human Rights: Right to health, Right to life

Facts

The plaintiff brought the case with First Instance Civil and Commercial Court of San Mart n [Juzgado de Primera Instancia en lo Civil y Comercial N 7 de San Mart n] against the provincial executive organ of the Federal Program of Health [PROFE Salud] to provide coverage and prescribed medicines she needed for her strict treatment for her systemic lupus erymatosus. The provincial court held that it was not competent because a health insurance company was being sued and according to Law 23 660 and 23 661 the federal jurisdiction is the applicable when health insurances companies are sued. The case was send to the Federal First Instance Court of San Mart n [Juzgado Federal de Primera Instancia N 2 de San Mart n] which also declared that it was not competent to solve the case because the executive organ of the program was the Provincial Ministry of Health.

The case was brought to the Supreme Court of Justice to decide which Court was competent to solve the case.

Decision and Reasoning

The Supreme Court of Justice held that the competent court was the First Instance Civil and Commercial Court of San Mart n [Juzgado de Primera Instancia en lo Civil y Comercial N 7 de San Mart n] because even though the Federal Program of Health was created by the National Ministry of Health, it celebrated agreements with the provinces, in this case with the Ministry of Health of the Province of Buenos Aires, so the program is under provincial execution and jurisdiction, by provincial decree 1532/10. This criteria was adopted also in the Supreme Court's precedent "Gonz lez Fabiana L.v. PROFE Salud".

Decision Excerpts