

The Burger Court Opinion Writing Database

Schweiker v. McClure

456 U.S. 188 (1982)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

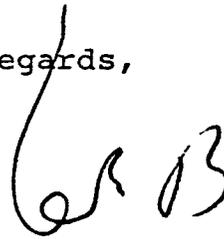
March 31, 1982

RE: 81-212 - Schweiker, Secretary of Health and Human
Services v. McClure

Dear Lewis:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'L.P.' or 'LP', written in a cursive style.

Justice Powell

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

March 25, 1982

RE: No. 81-212 Schweiker v. McClure

Dear Lewis:

Please join me.

Sincerely,

A handwritten signature in cursive script that reads "Bill".

Justice Powell

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 25, 1982

Re: 81-212 - Schweiker v. McClure

Dear Lewis,

I join.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'J.P.', written in a cursive style.

Justice Powell

Copies to the Conference

cpm

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 25, 1982

Re: No. 81-212 - Schweiker v. McClure

Dear Lewis:

Please join me.

Sincerely,

Jm.
T.M.

Justice Powell

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

March 26, 1982

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

Re: No. 81-212 - Schweiker v. McClure

Dear Lewis:

Please join me.

Sincerely,



Justice Powell

cc: The Conference

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall ✓
Justice Blackmun
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice Powell

Circulated: **MAR 24 1982**

Recirculated: _____

L/F P
Please see me

1st CIRCULATED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-212

**RICHARD S. SCHWEIKER, SECRETARY OF HEALTH
AND HUMAN SERVICES, APPELLANT v.
WILLIAM McCLURE ET AL.**

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA**

[March —, 1982]

JUSTICE POWELL delivered the opinion of the Court.

The question is whether Congress, consistently with the requirements of due process, may provide that hearings on disputed claims for certain Medicare payments be held by private insurance carriers, without a further right of appeal.

I

Title XVIII of the Social Security Act, 42 U. S. C. § 1395 *et seq.*, commonly known as the Medicare program, is administered by the Secretary of Health and Human Services. It consists of two parts. Part A, which is not at issue in this case, provides insurance against the cost of institutional health services, such as hospital and nursing home fees. §§ 1395c-1395i-2. Part B is entitled "Supplementary Medical Insurance Benefits for the Aged and Disabled." It covers a portion (typically 80%) of the cost of certain physician services, outpatient physical therapy, x-rays, laboratory tests, and other medical and health care. See §§ 1395k, 1395l, and 1395x(s) (1976 ed. and Supp. III). Only persons 65 or older or disabled may enroll, and eligibility does not depend on financial need. Part B is financed by the Federal Supplementary Medical Insurance Trust Fund. See § 1395t (1976 ed. and Supp. III). This Trust Fund in turn is funded

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 26, 1982

81-212 Schweiker v. McClure

Dear Chief:

I think it best not to bring this case down next week, as we tentatively decided at Conference this morning.

It is helpful, I think, to retain the cross citation to U.S. v. Erika on page 3 of my opinion. I hope to circulate Erika fairly soon, possibly by the end of next week.

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

3,9,10

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice Powell

Circulated: _____

Recirculated: APR 13 1982

SECOND DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-212

**RICHARD S. SCHWEIKER, SECRETARY OF HEALTH
AND HUMAN SERVICES, APPELLANT v.
WILLIAM McCLURE ET AL.**

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA

[April —, 1982]

JUSTICE POWELL delivered the opinion of the Court.

The question is whether Congress, consistently with the requirements of due process, may provide that hearings on disputed claims for certain Medicare payments be held by private insurance carriers, without a further right of appeal.

I

Title XVIII of the Social Security Act, 42 U. S. C. § 1395 *et seq.*, commonly known as the Medicare program, is administered by the Secretary of Health and Human Services. It consists of two parts. Part A, which is not at issue in this case, provides insurance against the cost of institutional health services, such as hospital and nursing home fees. §§ 1395c-1395i-2. Part B is entitled "Supplementary Medical Insurance Benefits for the Aged and Disabled." It covers a portion (typically 80%) of the cost of certain physician services, outpatient physical therapy, x-rays, laboratory tests, and other medical and health care. See §§ 1395k, 1395l, and 1395x(s) (1976 ed. and Supp. III). Only persons 65 or older or disabled may enroll, and eligibility does not depend on financial need. Part B is financed by the Federal Supplementary Medical Insurance Trust Fund. See § 1395t (1976 ed. and Supp. III). This Trust Fund in turn is funded

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 25, 1982

Re: No. 81-212 Schweiker v. McClure

Dear Lewis:

Please join me.

Sincerely,

WHR

Justice Powell

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 25, 1982

Re: No. 81-212 Schweiker v. McClure

Dear Lewis:

Please join me.

Respectfully,



Justice Powell

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 25, 1982

No. 81-212 Schweiker v. McClure

Dear Lewis,

Please join me.

Sincerely,



Justice Powell

Copies to the Conference