

23-250 BECERRA V. SAN CARLOS APACHE TRIBE

DECISION BELOW: 53 F.4th 1236

LOWER COURT CASE NUMBER: 21-15641

QUESTION PRESENTED:

The Indian Self-Determination and Education Assistance Act, 25 U.S.C. 5301 *et seq.*, permits eligible Indian tribes to contract with the federal government to assume responsibility for federal health care programs administered for the benefit of Indians. Upon entering into the contract, a tribe is entitled to the appropriated funds that the Indian Health Service (IHS) would have otherwise allocated to the federal program. 25 U.S.C. 5325(a)(1). The Act also requires IHS to pay "contract support costs"-funds "added to" that appropriated amount to cover the costs of activities the tribe must undertake to operate the transferred program, but which either "normally are not carried on" by IHS when acting as program operator, or which IHS would have "provided * * * from resources other than" the appropriated funds transferred under the contract. 25 U.S.C. 5325(a)(2). Separately, contracting tribes are permitted to collect payment from third-party payors-like private insurers, Medicare, and Medicaid-when they provide health care services to covered individuals. The question presented is as follows:

Whether IHS must pay "contract support costs" not only to support IHS-funded activities, but also to support the tribe's expenditure of income collected from third parties.

CONSOLIDATED WITH 23-253 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 11/20/2023