

US Supreme Court Limits Deference to Federal Agency Action



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On June 28, 2024, the Supreme Court of the United States issued its long-awaited decision in *Loper Bright Enterprises v. Raimondo* and overruled *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.*, putting an end to the 40-year precedent that required the courts to give deference to federal government administrative agency interpretations of ambiguous or otherwise unclear federal statutes. This judicial decision will open the door to challenges to federal administrative agency actions in the courts, including by the health care sector, with far greater success, which will also likely cause federal administrative agencies in the future to take less expansive administrative actions than they would have taken had the *Chevron* deference doctrine remained in effect.

Chevron* Deference Doctrine & Why SCOTUS Overturned *Chevron

The *Chevron* deference doctrine is a judicial creation stemming from a 1984 case involving the Environmental Protection Agency (“EPA”) and the Clean Air Act. The particular details of *Chevron* are not important for the purpose of this client alert, but the analysis used to resolve the matter is significant and is what the Supreme Court overruled in *Loper Bright Enterprises v. Raimondo*.

Here is how the *Chevron* deference doctrine works: To qualify for *Chevron* deference, the agency action at issue must meet certain preconditions, particularly the agency must have acted with the force of law and must have only interpreted statutes the agency is responsible for implementing. If those prerequisites are met (which is the case in the vast majority of situations), the court then would determine, in the absence of explicit Congressional intent, whether the agency's interpretation of an ambiguous or otherwise unclear legal term is permissible. As long as an agency's interpretation is permissible, the court was, under *Chevron*, required to defer to that interpretation.

In other words, under *Chevron*, the judiciary branch owed deference to the federal administrative agencies on questions of law involving ambiguous and otherwise unclear statutes, regardless of whether the court believed the circumstances warranted a completely different interpretation. Proponents of the *Chevron* deference doctrine argued that the doctrine allowed federal administrative agencies to use their expertise as top policymakers of their respective industries to act nimbly and fill in gaps where legislation appeared to fall short in addressing issues. In contrast, opponents of the *Chevron* deference doctrine argued that the doctrine infringed on the separation of powers and afforded unelected bureaucrats that work in federal agencies the ability to impose burdensome restrictions and rules largely without judicial oversight.

The Supreme Court in *Loper Bright Enterprises v. Raimondo* agreed with the opponents and therefore overruled the *Chevron* deference doctrine. In its decision, the Supreme Court concluded that there is nothing in law or any other authority that requires the courts to afford deference to federal administrative agencies when they interpret statutes in any context. Further, the Supreme Court concluded in its decision that the United States Constitution provides authority solely to the judicial branch to use its independent judgment to interpret the law. The *Chevron* deference doctrine, the Supreme Court found, enabled federal administrative agencies to subvert the judicial branch's own independent judgment, shifting, according to the Supreme Court, too much power to the executive branch.

How this Decision Impacts Industry

With this Supreme Court decision, federal administrative agencies will no longer be afforded deference by the courts of those agencies' own interpretations of the law. Rather, the courts will now be tasked with using their traditional tools of statutory construction to determine the meaning of the law and they will no longer be bound to follow any federal administrative agency's legal interpretation. Consequently, the health care sector – and, indeed, virtually every other regulated industry sector -- will have a far better chance of prevailing in future court challenges of federal administrative agency interpretations of the law. Such court challenges could impact health care and other regulated sectors either positively or negatively on a broad scale, but going forward, federal administrative agency actions, and by implication, state administrative agency actions, will likely be more closely aligned with the parameters of underlying law. Those administrative agencies also will likely avoid implementing bold administrative actions under ambiguous and other unclear laws given the new judicial oversight such actions now face under the Supreme Court's decision.

For more information about the longstanding *Chevron* deference doctrine and the potential implications of the Supreme Court's recent decision to strike it down, please contact Frank J. Fanshawe (ffanshawe@lippes.com).

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