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Plaintiffs in *CMA et al. v. Douglas et al.*, File Request for Rehearing of Case *Medi-Cal reimbursement rate cut would significantly impair access to care*

Sacramento – Today, plaintiffs in *CMA et al. v. Douglas et al.* filed a request for an *en banc* review of the case. The request comes on the heels of a reversal of the Federal District Court’s decision by a three judge panel of the Ninth Circuit Court of Appeals.

The plaintiffs in the case — The California Medical Association (CMA), California Hospital Association (CHA), California Dental Association (CDA), California Pharmacists Association (CPhA), National Association of Chain Drug Stores (NACDS), California Association of Medical Product Suppliers (CAMPS), AIDS Healthcare Foundation (AIDS) and American Medical Response (AMR) – had 45 days from the day of the three judge panel’s decision to ask for an *en banc* review. During that time, the injunction issued by the Federal District Court has remained in place.

“Cutting payment to Medi-Cal providers by 10 percent will have a huge impact on patient access to care,” said Paul R. Phinney, M.D., CMA president. “The state is in much better fiscal shape now than when these cuts were initially proposed in 2011 and with millions of new Medi-Cal patients entering the program under the Affordable Care Act, the elimination of the Healthy Families Program and the shift of dual-eligible patients, we simply cannot continue to cut resources and expect successful implementation of health reform in California.”

Plaintiffs in *CMA et al. v. Douglas et al.* argue that reducing payments in the Medi-Cal system will force providers out of the program at a time when millions of new patients will be diverted into the Medi-Cal system.

CHA President and CEO C. Duane Dauner noted that the state’s acute care hospitals face an even more severe payment cut than other providers because the reductions are based on rates in effect in 2008-09.

“Hospitals that operate skilled nursing units are facing a 25 percent cut in their Medi-Cal reimbursement,” Dauner stated. “These units provide complex medical care for elderly patients that is not available in any other care setting. If these cuts are implemented, access to care for thousands of elderly, frail patients will be compromised, and some rural or safety net hospitals may be forced to close.”

Tom Hayes, CEO of Eastern Plumas Health Care, noted that the Medi-Cal cuts would decimate hospital services in rural Plumas and Sierra Counties.

“These cuts will amount to a \$2.4 million loss to our hospital if state officials go ahead with retroactive recoupment,” Hayes said. To put this in perspective, over the past five years, our hospital’s average net income was \$439,950. If we are required to pay this amount of money, it would not only cause us to close our skilled nursing facilities, it would cause the demise of our entire organization.”

CMA, CPhA and CDA successfully sued in the past to enjoin prior Medi-Cal cuts and expect to once again demonstrate that federal law, which ensures that Medi-Cal patients have equal access to health care, was not followed. That decision was made by the Ninth Circuit Court of Appeals.

“With the shift of 875,000 children from the Healthy Families Program to Medi-Cal as well as the implementation of the Affordable Care Act that will cover an additional 1.2 million children, the state’s attempt to cut reimbursement rates would harm patients’ oral health and their ability to access care,” said CDA President Lindsey Robinson, DDS, a pediatric dentist. “California has among the lowest reimbursement rates in the nation, and this is not the time to make further cuts.”

"California is working hard to implement the Affordable Care Act, which includes moving five million Californians into the Medi-Cal system, plus another million children from Healthy Families into Medi-Cal," said Jon Roth, CAE, CEO of the California Pharmacists Association. "If the Medi-Cal provider cuts are implemented, it will have a disastrous effect on real health care reform and will cause irreparable damage to California's most vulnerable citizens. The California Pharmacists Association and other providers will continue to fight these cuts in order to protect access to care for all Californians."

Of added concern, the California Department of Health Care Services (DHCS) has repeatedly given numbers of practicing Medi-Cal physicians that are higher than the number of total physicians practicing in California. Plaintiffs raise this as a point of distress because it further shows that the state is unaware of the number of providers that patients are able to see.

“Cutting rates to Medi-Cal providers will impact the ability of Medi-Cal beneficiaries to access needed health care services,” said Bob Achermann, CAMPS Executive Director. At the same time California is moving to implement the Affordable Care Act and transition existing beneficiaries to managed care plans they are endangering the ability of exiting Medi-Cal providers to participate in these programs.

“If affirmed, this decision will have a terrible impact on the health of Californians with HIV/AIDS,” said Tom Myers, AIDS Healthcare Foundation General Counsel. “Much of health care reform rests on expanding the number of people, including those with HIV/AIDS, on Medicaid, which due to these cuts will have even fewer doctors participating. This will further limit access, make people sicker, increase HIV infections in California, and undermine the very goals and purpose of health care reform.”

The injunction on the Medi-Cal cuts will remain in place until the full Ninth Circuit Court of Appeals has ruled.

“This is an important public policy issue that the 9th Circuit should review,” said Thomas R. Wagner, AMR Region CEO. “Reductions in Medi-Cal reimbursements for 911 emergency ambulance services may force municipalities to lower the high standards of EMS that Californians currently receive.”

The Federal District Court's ruling in February of 2012 stated that "California's fiscal crisis does not outweigh the serious irreparable injury patients would suffer absent the issuance of an injunction."

"Many Californians rely on services provided by community pharmacies, such as flu shots, medication counseling and health screenings. If implemented, these devastating Medi-Cal cuts could compromise patient health and access to pharmacy services, which would also drive up health care costs," said NACDS President and CEO Steven C. Anderson, IOM, CAE. "We are hopeful the Court will rule in favor of preserving patient access to pharmacy care."

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