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Lawsuit Explained: Legal Causes of Action

This lawsuit addresses the state of California’s failure to ensure access to health care for Medi-Cal patients as required by federal and state law, and its failure to take the regulatory steps legally required to make changes to the State Plan for Medi-Cal. The lawsuit also alleges that the State overstepped its constitutional authority in February by passing the statute which reduced Medi-Cal rates for health care providers by 10% beginning July 1, 2008.

These violations have consequences for all Californians: Medi-Cal beneficiaries will not have sufficient access to health care; the state will lose more than \$500 million in federal matching funds; employers and privately insured Californians will pay more for health insurance; many counties will suffer a loss in revenue; and all Californians will face longer lines in Emergency Departments.

The lawsuit is a class action on behalf of California health care providers and seeks declaratory relief, and preliminary and permanent injunctive relief against these cuts.

1. The State has not ensured that Medi-Cal payment rates are sufficient to ensure access to health care for Californians on Medi-Cal, in violation of state law and the State Medi-Cal Plan.

Federal law requires states to establish and follow a state Medicaid plan (the “State Plan”) that, in turn, must comply with the applicable federal Medicaid law. [42 U.S.C. § 1396a(a)(5); 42 C.F.R. §§ 430.10 and 431.10; Title 22, California Code of Regulations, section 50004(b)(1)] California’s State Plan requires Medi-Cal payment rates to be set and changed in accordance with federal Medicaid regulations. [Cal. State Plan, Attachment 41.19B] Those regulations require California to ensure that payment rates are sufficient to ensure that Medi-Cal beneficiaries have access to health services to the same extent such services are available to the general insured public. [42 C.F.R. §§447, 447.204; 42 U.S.C. § 1396a(a)(30)(A)]

To meet these requirements, California is required by statute to review Medi-Cal provider rates annually and revise them periodically to ensure the mandated levels of access. [California Welfare and Institutions Code 14079] The Department, by its own admission,

has not done this review in at least 15 years. During the same period of time, Medi-Cal provider rates have been increased across the board only once for physicians.

The result: Medi-Cal reimbursement rates are among the lowest in the nation, in many cases paying below the cost of providing care. These rates have already driven providers from the Medi-Cal system. The 10% payment cuts will result in further provider shortages and access problems for Medi-Cal beneficiaries, leaving the state far short of the equal access required by the law.

2. The State has not maintained Medi-Cal payment rates consistent with efficiency, economy, quality of care, and the cost of providing health care services, as required by federal law.

Federal law requires the State to maintain Medi-Cal payment rates that are consistent with efficiency, economy, quality of care and the cost of providing health care services to Medi-Cal beneficiaries. [42 U.S.C. § 1396a(a)(30)(A)] The state failed to conduct responsible cost studies to determine whether the reduced payment levels are sufficient to enlist enough providers and are consistent with the cost of providing care to Medi-Cal beneficiaries, imposing the 10% cuts solely for budgetary reasons.

3. The State has failed to ensure that Medi-Cal beneficiaries can obtain medical and dental care with reasonable promptness, in violation of federal law.

Federal law requires the state to ensure Medi-Cal beneficiaries can obtain medical care with reasonable promptness. [42 U.S.C § 1396a(a)(8)] The access problems exacerbated by the 10% cuts – fewer physicians, dentists and pharmacists willing to accept payment at significantly less than their cost for treatment – will undermine the ability of Medi-Cal beneficiaries to obtain prompt medical care.

4. The State amended its Medicaid State Plan without prior federal approval, in violation of federal law.

The 10% cut in Medi-Cal payment rates constitutes a de facto amendment to the State Plan, and was enacted without prior federal approval, in violation of state and federal law. [42 U.S.C. § 1396a(a)(8)]

5. The State exceeded its constitutional authority in passing AB 5, the emergency budget session legislation passed in February 2008 which made the 10% Medi-Cal cuts scheduled for July 1, 2008.

AB 5 exceeded the Constitutional authority granted to the Legislature during the 2008 emergency budget session.