



## NEWS RELEASE

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#### Health Care Providers Sue State of California Over Cuts in Medi-Cal Payments

*Class Action Lawsuit Aims at Preventing 10 Percent Cuts from Taking Effect July 1;  
Providers Say Cuts Will Reduce Timely Access to Care*

**SACRAMENTO** – In an effort to ensure that all Californians have continued access to vital health care services, a coalition of health care providers today filed a lawsuit against the state of California to prevent a planned 10 percent cut in Medi-Cal and Denti-Cal payments from taking effect on July 1.

In February, the Legislature approved and the Governor signed into law a total of \$1.3 billion in cuts to the Medi-Cal program in an effort to stem the state’s budget crisis. The cuts are scheduled to take effect July 1 unless the court intervenes. In addition, the June 19 and August Medi-Cal payments to hospitals, pharmacists and adult day health care providers are slated to be delayed. For some providers – such as rural hospitals and individual caregivers – the delay in Medi-Cal payments may result in employees not receiving their paychecks and food service, pharmaceutical and other vendors not being paid.

The class action lawsuit seeks an immediate injunction to block the reduction in Medi-Cal payments. The suit was filed jointly by the California Medical Association (CMA); the California Hospital Association (CHA); the California Dental Association (CDA); the California Association for Adult Day Services (CAADS); the American College of Emergency Physicians, State Chapter of California (Cal/ACEP); the California Pharmacists Association (CPhA); and the California Association of Public Hospitals and Health Systems (CAPH).

#### Cuts Will Reduce Access to Health Care Services

The lawsuit, filed in Los Angeles County Superior Court, contends that the planned payment cuts violate state and federal laws that require that Medicaid (Medi-Cal) payments “*must be sufficient to enlist enough providers so that services under the (state’s Medicaid) plan are available to recipients at least to the extent that those services are available to the general public.*” 42 C.F.R. §447.204

“Medi-Cal already doesn’t cover the cost of providing care,” said Richard Frankenstein, M.D., president of the California Medical Association (CMA). “This chronic underfunding is forcing many doctors to leave the Medi-Cal program, which in turn deprives these vulnerable patients access to primary and preventative medical care. If these cuts take effect, Medi-Cal patients will be forced to seek care in already overcrowded hospital emergency rooms, which undermines access to care for all Californians.”

According to the complaint, the reimbursement cuts authorized in February were implemented “solely due to state budgetary woes, without regard to the impact on the availability of Medi-Cal services.” Such cuts are illegal, according to the complaint, and are “being imposed on a system already in crisis, wherein inadequate payment levels have resulted in a scarcity of willing providers, creating serious access hurdles for Medi-Cal beneficiaries.” If the cuts are allowed to take effect, the lawsuit continues, additional health care providers will withdraw from the Medi-Cal program, which in turn will lead “to additional crowding of hospital emergency departments.”

“California’s emergency rooms are overburdened and chronically overcrowded,” said Michael Salomon, M.D., president of the American College of Emergency Physicians, State Chapter of California (Cal/ACEP). “Ambulance diversions and patient wait times are on the rise – with many patients having to wait hours, or even days, for a hospital bed. Slashing Medi-Cal payments will make things even worse.”

California already ranks dead last in the nation when it comes to funding health care for Medicaid patients. According to the Kaiser Family Foundation, California spends \$2,701 per Medicaid beneficiary – the lowest rate in the nation. The national average is \$4,662 per Medicaid beneficiary.

Patients in rural areas of California may be particularly affected by the planned Medi-Cal payment cuts, where there may be only one pharmacy and the local hospital also serves as a skilled nursing facility.

“It is almost impossible to grasp the real impact of these cuts on small rural health care providers,” said Charles R. Guenther, CEO of Eastern Plumas Health Care District, which operates two small hospitals in Portola and Loyalton in Plumas County, located in northeastern California. “Our organization has already been through bankruptcy once – we can’t go through it again. We have no operating cash on hand and we owe \$1.5 million in accounts payable. We are the only health care provider for about 1,500 square miles. We are having great difficulty in getting essential supplies and keeping qualified staff even at the current level of Medi-Cal reimbursement. If the state pulls the rug out from us by implementing these cuts, we will have no choice but to reduce services and close facilities.”

## **Reductions Violate Medicaid Regulations**

The lawsuit also contends that under federal Medicaid law, the Secretary of the U.S. Department of Health and Human Services (HHS) must approve the policies and methods used for setting payment rates and that such changes may not be implemented by the state prior to HHS' approval. According to the complaint, California has yet to submit what is known as a State Plan Amendment (SPA) to the federal government, requesting approval of the reduced Medi-Cal rates.

Additionally, federal regulations require the state to establish Medicaid payment rates for hospitals and other institutional providers through a public process that includes publishing the proposed rates and the methodologies and justifications used to establish those rates. No such process took place before the 10 percent rate reduction was approved, according to the lawsuit. Rather, the rate reductions were based solely on an across-the-board slashing of the state's budget.

When it comes to Medi-Cal payments to physicians and other individual health care providers, the lawsuit charges that "state law requires that Medi-Cal fee-for-service rates be adopted pursuant to the regulatory process and requires the Department (Department of Health Care Services) to annually review Medi-Cal rates for physician and dental services, taking into account Consumer Price Index cost increases, reimbursement levels under Medicare and other third-party payors, prevailing customary charges and other factors." As with the cuts imposed upon hospitals, the lawsuit points out that no such regulatory process occurred before the rate reductions for physicians and other providers were approved.

The Providers intend to seek an injunction to stop the cuts from going into affect before July 1. We anticipate a court hearing on the request for an injunction within the next thirty to forty-five days.

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