UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 09-8642 CAS (MANx)	Date	February 22, 2010
Title	CALIFORNIA HOSPITAL ASSOCIATION v. DAVID MAXWELL-JOLLY, Director of the State of Department of Health Care Services, State of California		

Present: The Honorable	CHRISTINA A. SNYDER, U.S. DISTRICT JUDGE	
PAUL PIERSON	LAURA ELIAS	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
Lloyd Bookman Jordan B. Keville	Brenda Ann Ray Lisa Tillman

Proceedings: **DEFENDANT'S MOTION TO STAY** (filed 1/20/10)

I. INTRODUCTION

On November 24, 2009, plaintiff California Hospital Association ("CHA") filed the instant action against defendant David Maxwell-Jolly, Director of the California Department of Health Care Services (the "Director"). The California Department of Health Care Services (the "Department") is a California agency charged with the administration of California's Medicaid program, Medi-Cal. Plaintiff is a trade association representing certain California hospitals that "participate in the Medi-Cal program." Compl. ¶ 54.

On July 28, 2009, California Governor Arnold Schwarzenegger signed into law Assembly Bill X4 5 ("AB 5"). AB 5 amends Cal. Welf. & Inst. Code § 14105.191, in part, and effectively "freezes" the Medi-Cal reimbursement rates for certain designated services "rendered during the 2009-2010 rate year and each rate year thereafter" at 2008-2009 levels. Cal. Welf. & Inst. Code § 14105.191(f); Compl. ¶ 39. Among the designated services, are multiple categories of hospital services, including services provided by nursing facilities that are part of hospitals (distinct part/nursing facilities, or "DP/NFs"), and subacute and pediatric subacute care units that are part of hospitals. Cal. Welf. & Inst. Code § 14105.191(f) (referencing classes of providers identified in subdivision (b)(2)). AB 5 also amends Cal. Welf. & Inst. Code § 14166.245, which governs payments to acute care hospitals not under contract with the Department for inpatient services. AB 5 eliminates the exemption for small and rural hospitals from the

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 09-8642 CAS (MANx)	Date	February 22, 2010
Title	CALIFORNIA HOSPITAL ASSOCIATION v. DAVID MAXWELL-JOLLY, Director of the State of Department of Health Care Services, State of California		

ten percent reduction on payments for inpatient services, originally enacted by Assembly Bill X3 5 in February 2008. Id. § 14166.245(g)(1); Compl. ¶ 40.

Plaintiff alleges that these two reimbursement rate provisions of AB 5 violate Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (the "Medicaid Act"), and that therefore, they are invalid under the Supremacy Clause of the United States Constitution. U.S. CONST. art. VI, cl. 2. Specifically, plaintiff alleges that AB 5 is preempted by § 30(A) of the Medicaid Act, 42 U.S.C. § 1396a(a)(30)(A) ("§ 30(A)"), because neither the Director nor the California legislature considered the "quality of care" and "equal access" provisions of § 30(A), and thus whether reimbursement rates are reasonably related to provider costs, before its implementation. Compl. ¶ 58. Plaintiff further alleges that the Director failed to comply with additional requirements of the Medicaid Act, federal regulations, and the state plan. Specifically, plaintiffs alleges that the two rate provisions of AB 5 were implemented in violation of (1) the public process provisions of 42 U.S.C. § 1396a(a)(13)(A);[1] (2) the public notice provisions of 42 C.F.R. § 447.205; (3) the State Plan requirements. Compl. ¶¶ 59-66. Plaintiffs seek declaratory relief and injunctive relief to restrain the implementation and enforcement of the two rate provisions of AB 5 at issue.

On January 11, 2010, plaintiff filed a motion for preliminary injunction, which is scheduled for hearing on February 22, 2010. On January 20, 2010, the Director filed the instant motion to stay plaintiff's motion for preliminary injunction, or in the alternative, the instant action. On February 1, 2010, plaintiff filed its opposition. A reply was filed on February 8, 2010. A hearing was held on February 22, 2010. After carefully considering the arguments set forth by both parties, the Court finds and concludes as follows.

II. LEGAL STANDARD

[1] In addition to bringing the instant action under the Supremacy Clause, plaintiff alleges that it has standing to enforce § 13(A) through a civil rights action under 42 U.S.C. § 1983. Compl. ¶ 61.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 09-8642 CAS (MANx)	Date	February 22, 2010
Title	CALIFORNIA HOSPITAL ASSOCIATION v. DAVID MAXWELL-JOLLY, Director of the State of Department of Health Care Services, State of California		

A district court has discretionary power to stay proceedings in its own court. See Landis v. North American Co., 299 U.S. 248, 254 (1936). Accordingly, the court "may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case." Leyva v. Certified Grocers of Cal. Ltd., 593 F.2d 857, 863 (9th Cir. 1979). However, case management concerns alone are not necessarily a sufficient ground to stay proceedings. See Dependable Highway Express v. Navigators Ins. Co., 498 F.3d 1059, 1066 (9th Cir. 2007). "'[I]f there is even a fair possibility that the stay . . . will work damage to some one else,' the stay may be inappropriate absent a showing by the moving party of 'hardship or inequity.'" Id. (quoting Landis, 299 U.S. at 255). Further, "being required to defend a suit, without more, does not constitute a 'clear case of hardship or inequity' within the meaning of Landis." Lockyer v. Mirant Corp., 398 F.3d 1098, 1112 (9th Cir. 2005).

III. DISCUSSION

The Director contends that plaintiff's motion for preliminary injunction, or alternatively, the instant action, should be stayed pending "the same and similar legal issues" in three pending cases before the Ninth Circuit Court of Appeals: (1) Managed Pharmacy Care v. Maxwell-Jolly, U.S. Ct. of Appeals Dkt. No. 09-55692, C.D. Cal. Case No. 09-0382 CAS (MANx); (2) Nat'l Assoc. of Chain Drug Stores v. Schwarzenegger, U.S. Ct. of Appeals Dkt. No. 09-57051, C.D. Cal. Case No. 09-7097 CAS (MANx) ("NACDS"); and (3) Cal. Pharmacists Ass'n v. Maxwell-Jolly, U.S. Ct. of Appeals Dkt. No. 09-5532, C.D. Cal. Case No. 09-0722 CAS (MANx).[2] Mot. at 2, 6. The Director argues that the pending appeals will address "salient legal issues in this case [which include] clarification of the scope and nature of an appropriate cost study pursuant to the

[2] Defendant requests that the Court take judicial notice of six filings with the Court: copies of the court docket in the three pending cases before the Ninth Circuit; copies of the opening briefs in two of the cases; and this Court's order in Nat'l Assoc. of Chain Drug Stores. Under Fed. R. Evid. 201, a court may take judicial notice of "matters of public record." Mack v. South Bay Beer Distrib., 798 F.2d 1279, 1282 (9th Cir. 1986). The Court GRANTS defendant's request for judicial notice.

federal law, and the meaning of the term 'bears a reasonable relationship,' as used in the Ninth Circuit's Orthopedic decision." Mot. at 8. Specifically, he contends that in Managed Pharmacy Care and California Pharmacists, the Ninth Circuit is being asked to find that the Department's rate analysis, conducted after legislative enactment of a Medi-Cal rate reduction, but before the Department implemented the reductions at issue, comported with § 30(A). Id. at 6. In other words, according to the Director, the Ninth Circuit will interpret whether the California legislature itself is bound by § 30(A). Id. The Director contends that because the pending appeals will be determined shortly, a stay will serve judicial order and economy by maintaining uniform treatment of like suits.[3] Id. at 7-8. Further, the Director argues that without this stay, he will be forced to expend scarce resources defending the instant action, and that plaintiff cannot demonstrate that its members will significantly suffer from a stay. Id. at 8-9.

Plaintiff responds that a stay is inappropriate because the pending appeals will not be resolved in a way that impacts the resolution of the instant case. Opp'n at 5. It contends that the legal issue in two of the pending appeals, identified by the Director, was already addressed by the Ninth Circuit in two published decisions: Cal. Pharmacists Ass'n . Maxwell-Jolly, 563 F.3d 847 (9th Cir. 2009), and Independent Livin Ctr. of Southern Cal. v. Maxwell-Jolly, 572 F.3d 644 (9th Cir. 2009) ("IILC"). Opp'n at 1, 6-7. Specifically, plaintiff asserts that with these two opinions, the Ninth Circuit made it clear that the requirements of § 30(A) apply to Medi-Cal rate changes mandated by the legislature. Id. at 6. In addition, plaintiff argues that the appeal in NACDS is clearly distinguishable from the instant case because it does not involve a statutorily mandated change or limitation to Medi-Cal payment rates, but rather the way the Director applies an already existing reimbursement formula. Id. at 3. Moreover, plaintiff contends that a stay will cause further damage to CHA's members because the rate provisions at issue are already in effect. Id. at 7-8. In support of this argument, plaintiff asserts that the Ninth Circuit, in California Pharmacists, 563 F.3d at 851-53, already concluded that the same type of harm plaintiff is claiming in this case, warranted an emergency stay. Id. Further,

[3] The Ninth Circuit heard oral argument on January 19, 2010 in Managed Pharmacy Care v. Maxwell-Jolly and California Pharmacists; and granted an expedited hearing in Nat'l Assoc. of Chain Drug Stores.

plaintiff argues that the Director has not demonstrated a legitimate hardship or inequity absent a stay. Id. at 9-10. Finally, plaintiff contends that the Director has not shown that the appeal proceedings will be concluded within a reasonable time because stays that depend on the conclusion of a pending appeal are indefinite and potentially very lengthy. Id. at 10-12 (citing Yong v. Internal Revenue Service, 209 F.3d 1116, 1119 (9th Cir. 2000)).

The Director replies that a stay serves the public interest in uniform legal rulings and avoiding unnecessary judicial interference in state statutes. Reply at 2. Further, he reiterates that plaintiff cannot show tangible harm from a stay. Id. at 3.

The Court finds that the Director has failed to demonstrate that a stay pending resolution of the cases before the Ninth Circuit Court of Appeals is appropriate. Given that the Ninth Circuit has previously had the opportunity to interpret the scope of § 30(A) in Medi-Cal cases similar to the instant case, see e.g., Cal. Pharmacists Ass'n . Maxwell-Jolly, 563 F.3d 847 (9th Cir. 2009), the Court finds that any benefit gained by awaiting further guidance from the Ninth Circuit is outweighed by the potential harm to plaintiff if an indefinite stay is granted.

IV. CONCLUSION

Based on the foregoing, the Court DENIES the Director's motion to stay.

IT IS SO ORDERED.

-- : 02

Initials of Preparer PDP