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Court Set to Rule on Medi-Cal Payment Cuts for Physicians

California ER physicians, whose Medi-Cal payments have yet again been threatened with a 10% cut, will soon know whether the Department of Health Care Services (DHCS) has the go-ahead to implement their most recent proposed cuts (and make them retroactive to June 2011). On January 30, 2012 a hearing will be held in the courtroom of Judge Christina Snyder that will determine whether a preliminary injunction will put a stop, albeit temporary, to the State's latest attempt to cut physicians' Medi-Cal payment rates. The good news is that Judge Snyder is the same judge who ruled against the DHCS less than one month ago on what was a very similar set of circumstances.

When CMS approved California's bid to cut provider rates last October 2011, physicians were not the only providers affected by the proposed cuts. The California Hospital Association (CHA) filed suit on behalf of skilled nursing facilities and pharmacies that, like physicians, faced large reductions in this crucial revenue source. A hearing was held on December 28, 2011 in Judge Snyder's U.S. District Court on very similar issues and arguments as those set to take place on January 30th when the physicians' cuts are to be heard. Judge Snyder ruled against the DHCS, holding that California cannot cut Medi-Cal reimbursements given to hospitals for providing skilled nursing care and pharmacy rates.

In her December 28th ruling which granted a preliminary injunction sought by the CHA, Judge Snyder wrote, "as long as there is evidence showing that at least some Medi-Cal beneficiaries might lose services as a result of a rate reduction, irreparable harm is adequately demonstrated." She also found that the CHA had a high likelihood of success on their claim that the federal Health and Human Services Agency's review and approval of California's State Plan Amendments, to implement AB 97, were "arbitrary and capricious" and that the cuts likely violated the federal Takings Clause and Supremacy Clause. In its own request for a preliminary injunction, the California Medical Association has put forth much of the same arguments as those accepted by Judge Snyder in connection with the nursing homes and pharmacies. After the January 30th hearing California physicians will find out whether the similarities are sufficient to stop their cuts as well.

It is important to note, any success for California physicians on the January 30th hearing could be reversed on appeal, and it is likely that the losing party will prolong the uncertainty over this issue by appealing the Judge's ruling. If you have questions regarding this issue, please contact Jay Packer, Marina's Director of Legal Services at jpacker@marinabilling.com or (562) 809-3521.