

WESTERN CENTER ON LAW & POVERTY

BOARD OF SUPERVISORS

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January 26, 2010

BY FAX - (209) 525-4410
AND U.S. MAIL

Jeff Grover, Chairman
District 3
Board of Supervisors, Stanislaus County
1010 - 10th Street, Suite 6500
Modesto, CA 95354

Re: New Eligibility Standards In Stanislaus County Medically Indigent Adult Program (MIA)

Dear Supervisor Grover:

We represent indigent Stanislaus County residents who are being denied subsistence medical care because the County's income eligibility and cost-sharing policies in the Medically Indigent Adults (MIA) program fail to consider applicants' ability to pay for their care. The Board of Supervisors action on September 1, 2009 to increase cost sharing requirements and reduce the income limits in the MIA program violate the County's mandatory duty to provide medical care according to applicants' actual ability to pay.

For those who are not denied access to MIA outright, applicants with incomes above \$300 must pay co-payments and applicants with incomes above \$600 must pay a share of cost. The Board adopted this fee structure without regard for beneficiaries' ability to pay costs. Applicants will not be able to access the health care they need, because the costs exceed their ability to pay. In addition, the county has no procedure to grant eligibility due to hardship for persons who exceed the County's strict upper income cap, which remains at 200% of the Federal Poverty Level (FPL). These applicants are indigent within the meaning of Welfare & Institutions Code Section 17000.

The California Supreme Court has held that an income eligibility standard for a county health program is unlawful unless it takes into account an individual's actual ability to pay for the costs of care. *Hunt v. Superior Court*, 21 Cal. 4th 984, 1015 (1999). Thus, the MIA program must "consider an individual's ability to pay *all or a part* of their

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subsistence medical care.” *Alford v. County of San Diego*, 151 Cal.App.4th 16, 32 (2007) (emphasis in original). By denying MIA to individuals whose income exceeds 200% FPL, and by charging a share-of-cost and fees to persons with incomes as low as \$600 and \$300 respectively, without regard for ability-to-pay, Stanislaus County is violating its obligation under §17000 to provide subsistence care to indigent residents who lack the ability to pay for their own care.

In addition, contracted health care providers in Stanislaus County’s MIA program have refused to provide medically necessary health care to MIA beneficiaries unless those beneficiaries are able to pay their co-pays and fees up-front, and county workers verbally instruct applicants that this is the county’s policy. MIA beneficiaries who are without means to pay costs at the time they seek services have been denied care, even if they would have been able to pay the costs later.

Welfare & Institutions Code § 16804.1(a) states: “No fee or charge shall be required of any person before a county renders medically necessary services to persons entitled to services pursuant to Section 17000,” *i.e.*, MIA beneficiaries. By failing to ensure that contracted health care providers provide medically necessary services to MIA beneficiaries, regardless of whether those beneficiaries are able to pay their fees at the time of service, the County has violated § 16804.1.

Finally, it is our understanding that the written notice applicants receive informing them of their share of cost amounts due not inform them that they have a right to a hearing if they disagree, in violation of their due process rights.

The County has been given numerous opportunities to fix this problem administratively: one of our clients has requested, to no avail, the appeals packet from county staff and has brought these illegal policies to your attention numerous times over the last month, requesting a reconsideration of the share of cost and disputing the policy that denies her care if she cannot pay up front. In addition, the Modesto Bee has published two articles highlighting the policy and its effects. Indigent Stanislaus County residents cannot afford to go without the health care they are entitled to any longer.

We demand that by February 1, 2010 you instruct county and county-contracted hospitals, clinics, pharmacies and any other health care providers to provide medically necessary treatment to MIA beneficiaries regardless of whether they are able to pay at the time services are rendered. In addition, if we do not hear from you by February 12, 2010 that you commit to revising for board approval your MIA income eligibility and cost-

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sharing policies to take account of applicants' ability to pay and to provide adequate notices of action and appeals procedures, we will file the appropriate legal action.

Sincerely,

A handwritten signature in black ink, appearing to read 'Abbi', followed by a long, sweeping horizontal line that extends to the right.

Abbi Coursolle
Greenberg Traurig Equal Justice Works Staff Attorney

AC:mh

cc: County Counsel John P. Doering, Stanislaus County
1010 Tenth St., Suite 6400
Modesto, California 95354
(BY FAX: (209) 525-6376)