

Health Reform Law Doesn't Nix Suit Over Fla. Medicaid Rates

By **Carolina Bolado**

Law360, Miami (March 26, 2013, 9:32 PM ET) -- A Florida federal judge recently refused to dismiss a legal challenge to the state's Medicaid doctor reimbursement rates, ruling that the federal health care reform law's scheduled pay boost for physicians does not make the suit moot.

In an order issued March 18, U.S. District Judge Adalberto Jordan refused to dismiss the Florida Pediatric Society's claims against Florida's Agency for Health Care Administration about low physician reimbursement rates.

The Centers for Medicare and Medicaid Services had not yet approved Florida's state plan amendment, he noted. And without that approval, medical providers in the state will not be paid the higher reimbursement rates under an Affordable Care Act amendment known as the Health Care and Education Reconciliation Act of 2010, according to the order.

“These providers, therefore, are still being paid the rates that the plaintiffs are challenging in this case, and everything remains the same as it was at trial,” Judge Jordan said. “As a result, as of today, nothing in this case — not the merits of the claims nor the injunctive relief requested — has been rendered moot.”

The judge said that if CMS approves Florida's state plan amendment, the state can ask for its motion to dismiss to be considered again. But he added that the defense would “have a difficult burden to overcome” because the federally legislated rate increases apply only until the end of 2014.

“If, as everyone agrees, there is speculation about what Florida will do with respect to Medicaid rates on or after Jan. 1, 2015, and what CMS will do with respect to Florida's decision, it would appear that the defendants will have a hard time showing that their eventual payment of Medicare rates to certain providers — because of a federal mandate which lasts for only two years — moots any part of this case,” Judge Jordan said.

The lawsuit dates to 2005, when the Florida Pediatric Society accused the state of failing to provide essential medical and dental services to children enrolled in federal medical assistance programs. Among other issues, the suit takes aim at the state's physician reimbursement rates, which the plaintiffs say are so low that many doctors will not treat Medicaid patients.

The Florida Pediatric Society is represented by Carl E. Goldfarb and Stuart H. Singer of [Boies Schiller & Flexner LLP](#), James Eiseman Jr. of Public Interest Law Center of Philadelphia, and Louis W. Bullock of Bullock Bullock & Blakemore.

The state is represented by Stephanie Daniel, Albert J. Bowden III and Chesterfield Smith Jr. of Florida's Office of the Attorney General and Robert D.W. Landon III of [Kenny Nachwalter PA](#).

The case is Florida Pediatric Society et al. v. Secretary of the Florida Agency for Health Care Administration et al., case number [1:05-cv-23037](#), in the U.S. District Court for the Southern District of Florida.

--Editing by Kat Laskowski.

http://www.law360.com/articles/427584/health-reform-law-doesn-t-nix-suit-over-fla-medicaid-rates?or_pk=3c8845af-e51c-4290-93cc-ad45b67399db&utm_source=campaign-reports&utm_medium=email&utm_campaign=boies-schiller-campaign