

Fresno County must continue medical care for indigent, judge rules

<http://www.fresnobee.com/2014/02/25/3791225/fresno-county-must-continue-medical.html>

By Carmen George

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A Fresno County Superior Court judge's tentative ruling Tuesday will enable the county's Medically Indigent Services Program to continue.

The court denied a request from the county to dissolve a permanent injunction that requires health care services be provided to the indigent -- people considered to be living in poverty. Thousands of people currently receive such care in Fresno County.

The permanent injunction has been in place since 1984.

The tentative ruling, issued by Judge Donald S. Black, said evidence does not show that it's "financially infeasible" for the county to provide services to the indigent.

Additionally, the tentative ruling states the county has not shown the "ends of justice would be served" by dissolving the injunction, because that would result in a "large segment of the population" without health care -- along with a "potential impact on an even larger segment of the population."

Black's ruling also said there hasn't been a change in law that would support dissolving the injunction.

His ruling is tentative, as the judge left open the possibility of a hearing on the issue.

The county can request another hearing on the tentative ruling. Attorney Jerry Behrens with the law firm Lozano Smith, representing the Fresno County Board of Supervisors in the case, said his recommendation is to argue the case on March 5. Behrens will receive direction from supervisors during a closed session at their next meeting, March 4.

Although many of the county's indigent people will transition into other low-income health insurance through the Affordable Care Act, which began at the start of this year, some residents will still need MISP because they either don't qualify for other programs -- such as the undocumented -- or can't afford other health care, said attorney Mona Tawatao, senior litigator with the Western Center on Law and Poverty.

Tawatao represents Clinica Sierra Vista in the case against the supervisors. Clinica Sierra Vista operates federally qualified health centers in Fresno and Bakersfield that primarily serve low-income patients.

Behrens said courts of appeal have ruled in other cases that counties have no legal obligation to provide indigent services for undocumented people under the Welfare and Institutions Code. Behrens said approximately 4,500 undocumented people use the MISP program, which costs about \$5,000 per enrolled person annually. Despite state dollars for the program, the county is losing money, Behrens said.

Tawatao countered: "Despite what the county says, it's not just undocumented people" covered by MISP.

"It's so many indigent people who rely on the MISP program for really, really critical care in terms of cancer treatment, diabetes, and other chronic conditions that without the MISP program leave people with no choice and public health at risk."

Tawatao said somewhere between 14,000 and 19,000 Fresno County residents utilize MISP. Of those, an estimated 6,000 will not be able to transition into other insurance programs, she said -- leaving them without health care if MISP is dissolved.

"It's not over yet," Tawatao said Tuesday of the tentative ruling, "but we're really very encouraged by what the court had issued today."

The reporter can be reached at (559) 441-6386, cgeorge@fresnobee.com or @CarmenGeorge on Twitter.

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