



JOSÉ R. RODRÍGUEZ
EL PASO COUNTY ATTORNEY
500 EAST SAN ANTONIO
ROOM 503, COUNTY COURTHOUSE
EL PASO, TEXAS 79901

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For More Information Contact:

Elhiu Dominguez
Public Affairs Officer
Phone: (915) 546-2016
Cell: (915) 472-1354
FAX: (915) 546-2133
Elhiu.dominguez@ca.epcounty.com

Court of Appeals Decision Denies Medicaid Recipients Right to Sue for Equal Access to Healthcare

Elected officials called to remedy Medicaid funding gaps in Texas

The Fifth Circuit United States Court of Appeals in New Orleans has ordered the dismissal of a 4-year-old lawsuit filed by Equal Access for El Paso, a nonprofit healthcare advocacy organization, along with a coalition of Medicaid recipients, healthcare providers and the El Paso County Hospital District, in an attempt to force the Texas Health and Human Services Commission to stop its practice of inequitably funding healthcare in the state by establishing Medicaid reimbursement rates that discriminate against poor border communities such as El Paso.

In an opinion filed December 10, 2007, the Court of Appeals stated that the equal access provision in the federal Medicaid law does not create enforceable rights for the recipients of services under the Medicaid program. The Court held that, based on recent U.S. Supreme Court rulings, the Medicaid law does not allow recipients to sue the State of Texas to make it comply with the requirements of the law.

“I am deeply disappointed with the court’s decision,” said El Paso County Attorney José R. Rodríguez. “We had expected that the Court would at least have allowed the plaintiffs to present their case in the federal trial court to address the problem of unequal access to health care in Texas. Now we will have to seek other alternatives to make sure that the state government treats all citizens fairly,” Rodríguez added.

The lawsuit, filed on October 24, 2003, alleged that even though Texas relies on the poverty of its fifteen counties that border Mexico to obtain a higher amount of Medicaid funding from the federal government, the state allocates an unequal share of this funding, in the form of

Medicaid reimbursement payments to doctors and other healthcare providers, to non-border counties. The plaintiffs contended this resulted in unequal access to healthcare in the state. Because of the low Medicaid reimbursement rates, border communities have been struggling to attract and keep physicians. For example, El Paso had 61 % more patients per doctor than the state average and many of those doctors have had to limit the number of Medicaid patients they see because the Medicaid rates are so low.

In spite of the lawsuit's dismissal, the litigation helped to bring the discussion of equal access to healthcare to the forefront of the political debate in Austin, as evidenced by the fact that the Health and Human Services Commission itself recognized the need for increased reimbursement rates for physicians in its bi-annual Consolidated Budget submitted to the Texas Legislature in October 2006.

"The appeals court decision leaves our communities without legal recourse to fix the problem of unequal access to healthcare under the Medicaid program," said El Paso County Attorney Jose Rodríguez. "If we want to solve this inequity, we are going to have to mobilize to encourage the Texas legislature to fix this problem once and for all. We will also need to work with members of the US Congress to include new language in the Medicaid Equal Access Provision giving people the right to sue the government to obtain fair access to programs," Rodríguez concluded.

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