UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No.	CV 09-8642 CAS (MANx)	Date	April 5, 2010
Title	CALIFORNIA HOSPITAL ASSOCIATION v. DAVID MAXWELL-JOLLY, Director of the State of Department of Health Care Services, State of California		

Present: The Honorable	CHRISTINA A. SNYDER	
CATHERINE JEANG	NOT PRESENT	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
Not Present	Not Present

Proceedings: **(In Chambers:) DEFENDANT'S MOTION TO MODIFY RULING ON MOTION FOR PRELIMINARY INJUNCTION** (filed 03/08/10 & 3/11/10)

The Court finds this motion appropriate for decision without oral argument. Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing date of April 12, 2010, is hereby vacated, and the matter is hereby taken under submission.

I. INTRODUCTION

The facts and procedural history of the instant motion are known to the parties and summarized in this Court's February 24, 2010 order granting plaintiff's motion for preliminary injunction. Specifically, the Court ordered

> [R]espondent Director, his agents, servants, employees, attorneys, successors, and all those working in concert with him to refrain from enforcing Cal. Welf. & Inst. Code § 14105.191(f), including refraining from effectively freezing the Medi-Cal reimbursement rates for services provided by nursing facilities that are part of hospitals, and by subacute and pediatric subacute care units that are part of hospitals, "rendered during the 2009-2010 rate year and each rate year thereafter" at 2008-2009 levels. Further, the Court orders the Director, et al., to refrain from enforcing that portion of Cal. Welf. & Inst. Code 14166.245(g)(1) which reduces by ten percent payments to small and rural hospitals, not under contract with the Department, for inpatient services provided on or after July 1, 2009.

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Feb. 24, 2010 Order at 15.

On March 8, 2010, defendant filed the instant motion to modify the February 24, 2010 order, pursuant to Fed. R. Civ. P. 59(e). On March 17, 2010, plaintiff filed a statement of non-opposition to the motion. After carefully considering the arguments set forth by both parties, the Court finds and concludes as follows.

II. LEGAL STANDARD

The Court may grant reconsideration of a final judgment under Federal Rules of Civil Procedure 59(e) and 60. Generally, a motion for reconsideration of a final judgment is appropriately brought under Federal Rule of Civil Procedure 59(e). See Backlund v. Barnhart, 778 F.2d 1386, 1388 (9th Cir. 1985) (discussing reconsideration of summary judgment). The motion must be filed no later than twenty-eight days after entry of the judgment. See Fed. R. Civ. P. 59(e). "Reconsideration [pursuant to Rule 59(e)] is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law." School Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993); see also Kern-Tulare Water Dist. v. City of Bakersfield, 634 F. Supp. 656, 665 (E.D. Cal.1986), rev'd in part on other grounds, 828 F.2d 514 (9th Cir. 1987).

Under Rule 60(a), the Court may grant reconsideration of final judgments based on clerical mistakes. Relief under this rule can be granted on the court's own motion and at any time. See Fed. R. Civ. P. 60(a). However, once an appeal has been filed and docketed, leave of the appellate court is required to correct clerical mistakes while the appeal is pending. See id. Under Rule 60(b), the court may grant reconsideration of a final judgment and any order based on: "(1) mistake, surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud; (4) a void judgment; (5) a satisfied or discharged judgment; or (6) extraordinary circumstances which would justify relief." ACandS, Inc., 5 F.3d at 1263. A motion for reconsideration on any of these ground must be brought within a reasonable time and no later than one year of entry of judgment or the order being challenged. See Fed. R. Civ. P. 60(c)(1).

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III. DISCUSSION

Defendant contends that the Court's February 24, 2010 order granting plaintiff's motion for preliminary injunction is overbroad and should be amended to fall within the specific scope of relief sought by plaintiff. Mot. at 5. Namely, he argues that the portion of the order granting injunctive relief as to Cal. Welf. & Inst. Code § 14105.191(f) should indicate that the injunction is limited to defendant's implementation of the freeze in rates applicable to skilled nursing facilities that are a distinct part of general acute care hospitals and to pediatric and adult subacute units that are part of hospitals. Id. Plaintiff does not object to the Court modifying its order in this way.

Thus, the Court hereby modifies the first paragraph, set forth at page 15 of its February 24, 2010 order, as follows: "The Court hereby orders respondent Director, his agents, servants, employees, attorneys, successors, and all those working in concert with him to refrain from enforcing the freeze in reimbursement rates set forth in Cal. Welf. & Inst. Code § 14105.191(f) only as it applies to services provided by skilled nursing facilities that are a distinct part of general acute care hospitals, by adult subacute care units, and by pediatric subacute care units that are part of hospitals, 'rendered during the 2009-2010 rate year and each rate year thereafter.' Further, the Court orders the Director, et al., to refrain from enforcing that portion of Cal. Welf. & Inst. Code 14166.245(g)(1) which reduces by ten percent payments to small and rural hospitals, not under contract with the Department, for inpatient services provided on or after July 1, 2009."

IV. CONCLUSION

In accordance with the foregoing, the Court GRANTS defendant's motion to modify.

IT IS SO ORDERED.

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