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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 CALIFORNIA HOSPITAL
11 ASSOCIATION,

NO. CIV. S-10-3465 FCD/EFB

12 Plaintiff,

13 v.

O R D E R

14 DAVID MAXWELL-JOLLY, Director
15 of the California Department
16 of Health Care Services,
17 CALIFORNIA DEPARTMENT OF
18 HEALTH CARE SERVICES,

19 Defendants.
20 _____/

21 This case concerns the pending implementation of a rate
22 freeze on Medi-Cal payments to hospitals for inpatient services by
23 the California Department of Health Care Services ("Department").
24 The freeze is scheduled to begin on January 31, 2011. Plaintiff
25 California Hospital Association ("CHA" or "plaintiff") "is a trade
26 association representing the interests of California hospitals."
Mem. Supp. Mot. Prelim. Inj. at 1, Doc. No. 14-1 (January 27,
2011). Plaintiff seeks an injunction invalidating and halting the

1 implementation of the rate freeze. It now moves for a temporary
2 restraining order enjoining the Department from implementing the
3 rate freeze. For the reasons discussed below, plaintiff's motion
4 is granted.

5 **I. STANDARD**

6 Fed. R. Civ. P. 65 provides authority to issue either
7 preliminary injunctions or temporary restraining orders.
8 Ordinarily, a plaintiff seeking a preliminary injunction must
9 demonstrate that it is "[1] likely to succeed on the merits, [2]
10 that he is likely to suffer irreparable harm in the absence of
11 preliminary relief, [3] that the balance of equities tips in his
12 favor, and [4] that an injunction is in the public interest." Am.
13 Trucking Ass'ns v. City of Los Angeles, 559 F.3d 1046, 1052 (9th
14 Cir. 2009) (quoting Winter v. Natural Res. Def. Council, 129 S. Ct.
15 365, 374 (2008)). The requirements for a temporary restraining
16 order are largely the same. Stuhlbarq Int'l Sales Co. v. John D.
17 Brush & Co., 240 F.3d 832, 839 (9th Cir. 2001); see also Wright and
18 Miller, 11A Fed. Prac. & Proc. Civ. § 2951 (2d ed.).

19 **II. ANALYSIS**

20 **A. Likelihood of Success on the Merits**

21 Plaintiff contends that the rate freeze is unlawful for the
22 following reasons:

- 23 (1) it impairs the State's contractual obligations by
24 retroactively reducing payments and by nullifying rate
increases in binding contracts between the Department
and hospitals,
- 25 (2) it is being implemented without required federal
approvals, [and]
- 26 (3) it violates the federal Medicaid Act in that the

1 State has not complied with mandatory notice and
2 comment procedures for revising rates, and has not
3 prior to implementation demonstrated that the reduced
4 rates would be consistent with efficiency, economy,
5 quality of care, and patient access but has adopted
6 the freeze solely for budgetary reasons.

7 Mem. Supp. Mot. Prelim. Inj. at 1. In order to issue a temporary
8 restraining order, the court need only determine that plaintiff has
9 demonstrated a likelihood of success on one claim that would
10 entitle it to a permanent injunction enjoining implementation of
11 the rate freeze. In a related case, the district court¹ considered
12 whether *inter alia* California Welfare & Institutions Code §
13 14131.10, "which ended coverage of certain Medicaid benefits to the
14 extent they are 'optional' under federal law. . . . violated
15 federal law because [the Department] has not received federal
16 approval of its proposed changes to the State Plan reflected in
17 § 14131.10." Cal. Ass'n Rural Health Clinics v. Maxwell-Jolly, No.
18 2:10-cv-00759-FCD-EFB, 2010 WL 4069467, at *1-2 (E.D. Cal. Oct. 20,
19 2010). As to this claim, the court found that "federal law does
20 require prior federal approval of changes to the State Plan at
21 issue here, and thus, plaintiffs are entitled to a declaration
22 finding as such as well as an injunction precluding further
23 enforcement of § 14131.10 with respect to the subject benefits
24 until the State's plan amendment is approved." Id. at *2. Here,

25 ¹ On January 25, 2011, Judge Damrell issued a related case
26 order relating this case to a prior case, Cal. Ass'n Rural Health
Clinics v. Maxwell-Jolly, No. 2:10-cv-00759-FCD-EFB. This court is
resolving the motion for a temporary restraining order because
Judge Damrell is unable to do so before January 31, 2011.

1 plaintiff similarly has presented evidence that the rate freeze is
2 about to be implemented without federal approval of the change.
3 Thus, plaintiff has demonstrated a likelihood of success on the
4 merits of his claim that would entitle it to a injunction enjoining
5 implementation of the rate freeze.

6 **B. Irreparable Injury**

7 Ordinarily, this sort of financial injury could be remedied
8 by money damages and, thus, would not constitute irreparable harm.
9 However, here "the monetary injury is irreparable because the
10 Eleventh Amendment sovereign immunity of the Department (a branch
11 of the State of California government) bars [hospitals] from ever
12 recovering damages in federal court." Cal. Pharm. Ass'n v. Maxwell-
13 Jolly, 563 F.3d 847, 851-52 (9th Cir. 2009). Thus, plaintiff has
14 demonstrated an irreparable injury.

15 **C. Balance of the Hardships**

16 While the court recognizes the severity of the financial
17 crisis faced by the State of California, such a condition does not
18 tip the balance of the hardships in favor of the Department. The
19 hospitals represented by CHA will face significant financial loss,
20 which may affect the quality of care provided to Medi-Cal patients.
21 Thus, the balance of the hardships does not tip sharply in favor
22 of the Department.

23 **D. Public Interest**

24 Furthermore, the public interest favors enforcement of federal
25 laws and, thus, the public interest does not tip in favor of the
26 Department.

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