

John Grant forwarded a recent newspaper article which clearly explains the Medicaid lawsuit.

LAWSUIT BY PEDIATRICIANS, DENTISTS OVER MEDICAID CONTINUES

THE NEWS SERVICE OF FLORIDA

THE CAPITAL, TALLAHASSEE, April 30, 2009.....A lawsuit over whether children have adequate access to doctors and dentists that's headed for an August trial could cost the state billions of dollars.

John Grant, who served in the Legislature for 21 years and is now a lobbyist for the Florida Academy of Pediatric Dentistry, a plaintiff in the case, says Florida has violated federal law by not ensuring that the 1.6 million children in its Medicaid program have meaningful access to care – prompt, complete and, if necessary, continuing. That's particularly true when it comes to dentistry, because there are so few pediatric dentists willing to accept Medicaid patients.

The state, Grant said, has taken the issue lightly. That could end up costing Florida about \$3 billion, he said.

In November 2005, the Florida Pediatric Society and Florida Academy of Pediatric Dentistry filed a federal class-action lawsuit, citing the three state agencies that oversee Medicaid services to children: the Agency for Health Care Administration, the Department of Health and the Department of Children and Families. Several parents of Medicaid-enrolled children, who repeatedly tried and failed to get care for them, are also among the plaintiffs. The state moved to dismiss, but in January 2007, U.S. District Judge Adalberto Jordan ruled that the plaintiffs have standing to sue.

“I have talked to the governor’s Office, both in the Bush Administration and the Crist Administration, and they just don’t want to talk about it,” said Grant. “They just feel that sooner or later the courts are going to make it go away.”

Suing the state was a last recourse, said Dr. Louis St. Petery, vice president of the Florida Pediatric Society. In Fiscal Year 2004, he said, the last before the lawsuit was filed, half a million Florida children enrolled in Medicaid received no preventive health care at all, according to the state’s own records. And that figure has stayed much the same, said St. Petery.

“There are a myriad of issues that we have with Florida Medicaid that could be fixed should the three agencies – AHCA, DCF and DOH – decide to get together and resolve those,” St. Petery said. “And fixing those doesn’t cost anything. It just involves doing the right thing so that children who are eligible get their eligibility determined timely, so that

children who are eligible don't have their eligibility canceled inappropriately, and so that when they reapply, they actually can get back on in a timely manner.”

Actually, fixing the problem completely probably would cost something. Doctors and dentists have complained for years that the reason they don't treat Medicaid patients is because it costs them money. The state doesn't pay enough for Medicaid patients to make it worth it to take time away from private-pay patients.

The lawsuit also seeks higher payment levels – to the level of Medicare – to attract enough doctors and dentists to treat Medicaid-enrolled children. St. Petery said Medicaid generally covers one-third of what it costs him to treat a patient. For dentists, it's closer to one-fourth. Some major metropolitan areas of the state have only a couple dentists even willing to treat children on Medicaid. That makes wait times really long for those patients who can find a Medicaid doctor or dentist for their child. If the state were to raise its payment rates to what the federal Medicare program pays, that would be costly, particularly in a deficit year.

“In terms of liability, if the plaintiffs prevail, and obtain Medicare rates for those services as opposed to Medicaid rates, it would be, we estimate, an additional \$400 million per fiscal year,” Justin Senior, AHCA's general counsel, said in a March status report on the issue to the Senate Health and Human Services Appropriations Committee. “That's not just GR; that would include the federal match as well. So the GR total would be a little less than that, depending on what the federal percentage is.” St. Petery takes exception to Senior's numbers. He wrote Sen. Durell Peaden, R-Crestview and the committee chair, citing documentation from AHCA showing that for FY 2009-2010, to raise physician fees for children under 21 to Medicare levels and dental fees to 50 percent of usual and customary treatment would cost \$227,130,530 in general revenue. Talks do continue between the parties, Senior told the panel, but settling would involve spending money – which the Legislature would have to do, not the agencies.

“In terms of settling the suit, we're not in a position, as a body that doesn't do appropriating,” Senior told Peaden earlier this year in response to a question about what the agency was trying to do to avoid going to trial.

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