



February 12, 2018
For Immediate Release

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Physician Group Dedicated to Low-Income Patients Files Discrimination, Civil Rights Suit Against California Department of Managed Health Care and Gov. Brown Appointee

Says recent order issued by DMHC and its Director exceeds authority, violates due process and is discriminatory against Asian-owned business

Pasadena, CA – Following up on claims that they have been unfairly and illegally targeted by government overreach and discrimination, Employee Health Systems Medical Group (EHS) today brought suit against the California Department of Managed Health Care (DMHC) and its director, Gov. Jerry Brown appointee Shelley Rouillard. The lawsuit, filed in the U.S. District Court for the Central District of California (Los Angeles Division), claims a recent DMHC Order exceeds DMHC authority, violates due process, and discriminates against minority-owned EHS in violation of state and federal civil rights laws.

The EHS suit stems from a December 26, 2017 DMHC Order requiring health plans contracting with EHS to transfer 600,000 EHS patients – 90 percent of them Medi-Cal recipients with few provider options - out of EHS's care. The DMHC Order was issued following a newspaper story detailing a whistleblower complaint that alleged misconduct by SynerMed, a medical services administration company and former EHS contractor who has been accused of a practice called economic profiling. Upon learning of the allegations in late October 2017, EHS terminated its contract with SynerMed.

While the Order directs health plans to terminate EHS physician network, it does not address or apply to other physician groups that contracted with SynerMed during the same period. Further, because the Order was directed at SynerMed actions and EHS is not named as a respondent to the Order, the physician group has no right to appeal the Order or request a hearing, one of the bases for the federal lawsuit.

"The DMHC and Director Rouillard's illegal targeting of EHS is simply unconscionable," said EHS spokesperson Denise Ng. "Despite the fact that EHS had no knowledge of SynerMed's alleged wrongdoing and that our medical professionals have proven over decades their deep commitment to our patients and the underserved, the DMHC Order outrageously smeared our physicians and damaged our company in violation of state and federal law."

"State regulators never contacted us about the allegations in the Order. And, there has been no investigation of the findings," said Ng. "There have been no complaints about our company or the care we provide."

“It’s concerning when the government ignores its own laws as DMHC has done here” said Michael McClelland, an attorney and former DMHC Chief of Enforcement. “It’s more concerning when the government targets with different treatment certain minority-owned medical groups serving minority communities. And it’s reprehensible for the government to arbitrarily target EHS with no regard for the need of continuity of care of 600,000 of California’s most needy.”

Following is a summary of the claims contained in the EHS lawsuit against DMHC and Shelley Rouillard:

Claim One - Injunctive Relief from Order (Against DMHC and Rouillard): The DMHC Order violates a California law stating that health plans may not transfer or redirect more than two thousand members at a time without 75-day notice. The DMHC Order called for health plans contracting with EHS to move patients immediately, jeopardizing patient continuity of care and health.

Claim Two - Violation of Due Process (Against DMHC): Although targeted, EHS was not made a respondent in the DMHC Order and therefore has no legal right to appeal the Order or request a hearing, a violation of due process per the fifth and fourteenth amendments to the U.S. Constitution.

Claim Three - Violation of Excessive Fines (Against DMHC): The DMHC Order alleges SynerMed engaged in economic profiling without appropriate notice having been filed by the *health plans*, as required by law. By removing patients from EHS care, DMHC wrongly penalized and has done irreparable harm to the company.

Claim Four - Declaratory Relief (Against DMHC and Rouillard): The suit claims DMHC and Rouillard acted in a wrongful manner, causing damage to EHS. The suit asks for an official declaration of the rights and interests of parties in the matter.

Claim Five - Discrimination (Against DMHC and Rouillard): Although SynerMed provided similar services to other medical groups, DMHC and Rouillard did not issue Orders against those companies. In targeting minority-owned EHS and depriving them of their interests, DMHC violated California’s equal protection law. The suit asks the Court to void the Order.

Claim Six - Discrimination in Violation of the Federal Civil Rights Act (Against Rouillard): The suit points out the DMHC licenses and regulates health plans, not independent practice associations (IPAs) like EHS, pursuant to the Knox-Keene Act governing California managed health care. Despite this, Brown appointee Rouillard has undertaken two actions against IPAs, both of which were owned and/or operated by physicians of Asian or South-Asian descent. During the same period, DMHC initiated no actions against medical groups owned or operated by non-minority physicians. Rouillard’s actions as alleged were intended to, or have had the effect of depriving minority-owned EHS their right to be free from racial discrimination pursuant U.S. Civil Rights Act.

Pertaining to the claims in the suit, EHS requests the court invalidate the DMHC Order targeting EHS and award punitive damages and attorney fees to the company.

“We are hopeful the court will see that the DMHC Order is illegal and damaging, and immediately put an end to this government overreach and discrimination,” said Ng. “Moreover, Governor Brown, the Department and Director Rouillard must be held accountable so that they can never unfairly target businesses in the future.”

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