

Bay Area Nursing Home Patients Lose Class Challenge Over Closure

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- Plaintiffs didn't exhaust administrative remedies, court said
- Health and safety violations led CMS to cut off funds

Patients and residents of Laguna Honda Hospital can't proceed with a proposed class action challenging a plan to close the skilled-nursing facility until administrative remedies have been exhausted with the Department of Health and Human Services, a federal court in California ruled.

The lawsuit arises from an HHS decision to cut off federal funds for the San Francisco facility after a series of inspections found serious, repeated violations of Medicare and Medicaid requirements, many of which put the health and safety of patients at risk.

Four patients alleged in the lawsuit that the plan to cut off funding didn't provide for their safe and orderly transfer to adequate facilities, and violated the Americans with Disabilities Act, the Rehabilitation Act, and the Administrative Procedure Act.

Judge William Alsup of the US District Court for the Northern District of California denied the plaintiffs' motion for class certification for lack of subject matter jurisdiction in a Wednesday [ruling](#), and said the case should be dismissed on the same grounds. He gave the plaintiffs 14 days to contest the dismissal.

The CMS terminated Laguna Honda's provider agreements with Medicare and Medicaid earlier this year and assessed \$400,000 in fines, but plans to transfer the patients to other facilities have been put on hold amidst a shortage of available beds in the San Francisco area, Alsup said.

The City and County of San Francisco, which owns and operates the facility, has appealed CMS's decertification decision to an administrative law judge and has requested expedited hearings. The appeal remains pending.

The CMS and local officials recently reached an agreement in principle that would provide federal funds for the facility through November 2023, he said.

Administrative Remedies

The CMS and the California Department of Public Health argued that the court lacked jurisdiction over the case because the plaintiffs hadn't presented their claims to the HHS and exhausted their remedies with the agency.

All of their claims “arise under the Medicare Act and must be channeled through DHHS before judicial review becomes available,” Alsup said.

This includes their claims under the ADA and the Rehabilitation Act, which are claims for benefits subject to administrative review, he said.

Even their claims that the relocation plan violates the APA and their due process rights are “inextricably intertwined” with a claim for benefits, making them subject to administrative review, he said.

“That federal defendants’ duty to protect the health and safety of residents arises under only the Medicaid Act does not allow plaintiffs to circumvent the administrative review process,” he said.

Renne Public Law Group represented the plaintiffs.

The case is [D.B. v. Brooks-LaSure](#) , N.D. Cal., No. 3:22-cv-04501, 11/9/22 .

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