



1 Defendants David Maxwell-Jolly, Director of the California  
2 Department of Health Care Services, the California Department of  
3 Health Care Services ("DHCS"), Terri Delgadillo, Director of the  
4 California Department of Developmental Services, and the  
5 California Department of Developmental Services ("DDS") have  
6 filed an ex parte application for stay of the instant proceedings  
7 on grounds that pending decisions both from the Supreme Court, as  
8 well as new regulations expected to be promulgated in December  
9 2011 by the Centers for Medicare and Medicaid ("CMS"), may  
10 substantially resolve the issues underlying this lawsuit within  
11 the next four months. As set forth below, the Court concludes  
12 that good cause has been demonstrated for the requested stay.

13 As the Supreme Court has long noted, "the power to stay  
14 proceedings is incidental to the power inherent in every court to  
15 control the disposition of the causes on its docket with economy  
16 of time and effort for itself, for counsel, and for litigants."  
17 Landis v. N. Am. Co., 299 U.S. 248, 254-55 (1936). In order to  
18 foster both its own efficiency and in fairness to the parties, a  
19 court may properly stay an action pending the resolution of  
20 independent proceedings which bear upon a case. Leyva v.  
21 Certified Grocers of Cal., Ltd., 593 F.2d 857, 863-64 (9th Cir.  
22 1979).

23 The present matter, like many other cases pending before the  
24 Supreme Court, the Ninth Circuit and the Central and Eastern  
25 Districts of California, challenges Medi-Cal reimbursement rates  
26 on grounds that such rates run afoul of the requirements of  
27 Section 30(A) of the Medicaid Act, 42 U.S.C. § 1396a(30)(A).

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1 Plaintiffs specifically claim that Section 30(A) was violated by  
2 1) failing to obtain federal approval before modifying  
3 reimbursement rates; 2) implementing and enforcing reduction in  
4 payments with adequate study as to the impact of such reductions  
5 on efficiency, economy, quality of care and access to care;  
6 3) failing to consider the impact of reimbursement reductions on  
7 home-and-community-based-services ("HCBS") financed by federal  
8 Medicaid funds; and 4) failing to conduct or consider appropriate  
9 rate studies when modifying reimbursement rates. See Pls.'  
10 Compl., 8:14-20.

11 Fundamental to Plaintiffs' claims is whether private parties  
12 like Plaintiffs herein can enforce Section 30(A) under a  
13 Supremacy Clause cause of action, since the Ninth Circuit has  
14 recently confirmed that a Section 1983 action may not be brought  
15 to challenge a state's alleged violation of the Medicaid Act.  
16 Developmental Services Network v. Douglas, 2011 WL 5966363 (9th  
17 Cir. Nov. 30, 2011) at \*4. The availability of a Supremacy  
18 Clause challenge is squarely before the Supreme Court in the  
19 consolidated cases of Maxwell-Jolly v. Independent Living Center  
20 of Southern California, No. 09-958 (U.S. Feb. 26, 2010)  
21 ("Independent Living"), Maxwell-Jolly v. California Pharmacists  
22 Ass'n, No. 09-1158 (U.S. March 24, 2010) ("California  
23 Pharmacists"), and Maxwell-Jolly v. Santa Rosa Memorial Hospital,  
24 et al., No. 10-283 (U.S. Aug. 27, 2010). Counsel for Defendants  
25 represent that oral argument before the Supreme Court in these  
26 matters was heard on October 3, 2011, with a decision expected in  
27 the next four months.

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1 In addition, whether Defendants must conduct a study of  
2 health care provider costs as part of their obligations under  
3 Section 30(a), a violation Plaintiffs also assert was committed  
4 by Defendants, is expected to be resolved by CMS through issuance  
5 of a final rule in that regard expected in December 2011.

6 Given the fact that both the Supreme Court and CMS will  
7 apparently be providing key guidance on both issues shortly, and  
8 since the Supreme Court's decision in particular may well dictate  
9 whether Plaintiffs have standing to pursue this lawsuit in the  
10 first place, a stay pending the aforementioned determinations is  
11 in the interest of justice and necessary to avoid the waste of  
12 this Court's and the parties' continued resources- a waste that  
13 would occur through adjudication of further motion practice and  
14 pretrial proceedings that may be rendered moot, either in whole  
15 or in part, by said decisions.

16 Significantly, a stay determination in this regard is  
17 consistent with findings made by other courts. The Ninth Circuit  
18 has stayed several of its Chapter 30(A) cases, including Cal.  
19 Hosp. Ass'n v. Maxwell-Jolly, No. 10-55462, pending guidance from  
20 the Supreme Court. At least three Central District cases have  
21 done the same. See Defs.' Ex Parte Application, 9:5-11.

22 While Plaintiffs oppose any stay on grounds that the subject  
23 reductions will adversely impact the disabled, it appears that  
24 the reductions at issue have been in effect at least a year, and  
25 in some cases much longer.

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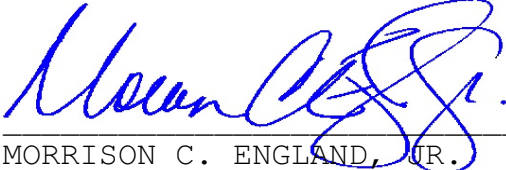
1 Consequently, particularly given what appears to be the imminent  
2 nature of the Supreme Court's decision as well as new CMS  
3 regulations which are expected literally within two weeks, a stay  
4 under the circumstances appears warranted.

5 This Court accordingly orders that the above-entitled case  
6 be stayed for all purposes during the pendency of the issues  
7 before the Supreme Court, as enumerated above, and pending final  
8 rules from CMS regarding Chapter 30(a), as expected in December  
9 of 2011. Given that stay, Plaintiffs' Motion for Preliminary  
10 Injunction (ECF No. 7) is denied, without prejudice to being  
11 reinstated when the instant stay is limited. In addition,  
12 Defendants' Motion to Dismiss (ECF No. 23) is similarly denied  
13 without prejudice subject to the same condition. Defendants have  
14 no further obligation to respond to Plaintiffs' Complaint during  
15 the pendency of the stay.

16 The parties are directed to file a joint status report  
17 within sixty (60) days following the date of this Order, or upon  
18 the disposition of the matters set forth above, whichever occurs  
19 first.

20 IT IS SO ORDERED.

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22 Dated: December 13, 2011

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25 MORRISON C. ENGLAND, JR.  
26 UNITED STATES DISTRICT JUDGE  
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