

**Stanislaus County/Health Services Agency
Grand Jury Case No. 02-12-C
July 2, 2002**

REASON FOR INVESTIGATION

The Stanislaus County Civil Grand Jury received a written complaint from a medical professional regarding the Stanislaus County Health Services Agency (SCHSA).

THE COMPLAINT:

1. SCHSA has stopped paying for Medically Indigent Adult (MIA) patients seen in the Emergency Room (ER) at Doctors Medical Center (DMC).
2. The California Emergency Room Physicians Group (CERP) is owed \$659,352.00 by Stanislaus County.
3. The County's urgent care centers repeatedly refuse to see any uninsured patient not having a \$50.00 co-payment.
4. Staff at the County urgent care centers are telling patients "Go to Doctors ER; they will treat you for free."
5. SCHSA continues to make enrollment into the MIA program an onerous process.

BACKGROUND

In 1997 the County closed the Stanislaus Medical Center. To insure the standard of health care, the County entered into an agreement with Tenet HealthSystem Hospitals (Tenet) which was operating DMC. The County received \$12,000,000.00 in this agreement. The County did not and does not have an agreement with CERP. CERP has a contract with DMC, and DMC verbally agreed to take care of the ER physicians.

PROCEDURES FOLLOWED

1. The Civil Grand Jury interviewed:
 - a. The complainant.
 - b. The Medical Director of the Emergency Room at DMC.
 - c. The Discharge Planner for DMC.
 - d. The Indigent Health Care Program Administrator of SCHSA.
 - e. The Director of Patient Administrator Services at DMC.
 - f. The Chief Executive Officer (CEO) of DMC.
 - g. The Chief Executive Officer (CEO) of Stanislaus Foundation for Medical Care.
 - h. The Clinic Manager for SCHSA.
 - i. The Interim Managing Director for SCHSA.
 - j. The Chief Executive Officer (CEO) of Stanislaus County.

2. The Civil Grand Jury reviewed the following documents and records:
 - a. California State Health and Safety Code Sections 1441, 1442, 1475 and 16946.
 - b. California Healthcare For Indigents Program and Rural Health Services Program (Proposition 99).
 - c. Senate Bill 2132 (SB2132) in the 1999-2000 session.
 - d. Omnibus Agreement between Tenet HealthSystem Hospitals and Stanislaus County dated November 30, 1997.
 - e. California Welfare & Institution Code 17000-17030.1.
 - f. Medically Indigent Adult Program Enrollment Forms 5091-1015L Revised: 9/98.
 - g. Stanislaus County Indigent Health Care Program Eligibility Manual dated March 11, 1994.
 - h. Emergency Medical Services Appropriation (EMSA) for SB2132.
 - i. Emergency Medical Treatment and Active Labor Act (EMTALA): Quick Reference Guide for On-Call Physicians.
 - j. Stanislaus County Board of Supervisors Action Agenda Summaries dated January 1997 through December 1997.

FINDINGS

1. According to the California Health and Safety Code Section 1441, the County may establish a county hospital; however, it is not required to do so.
2. For financial reasons, the County closed Stanislaus Medical Center and sub-contracted all hospital services to Tenet through the Omnibus Agreement.
3. The Omnibus Agreement, signed November 30, 1997 by the CEO of Stanislaus County and the CEO of DMC, outlines each party's responsibilities and duties pertaining to health care in Stanislaus County as outlined below:
 - a. This is a twenty (20) year agreement with automatic renewals each year thereafter.
 - b. Tenet can cancel the agreement if the County fails to pay any amount due DMC.
 - c. "DMC shall be the exclusive supplier to the County of all inpatient services required by County for the patients of the Clinics mostly at MediCal rates, emergency care and certain other free support functions for law enforcement and the coroner."
 - d. DMC paid \$12,000,000.00 to the County for this exclusive right as stipulated in this agreement.
 - e. DMC and the County shall jointly publicize that DMC now provides the health care services the County once provided.
 - f. For those patients at DMC who become qualified as eligible indigents, the County will pay for inpatient care (subject to free patient days) retroactive to the date of the inpatient admission at DMC. The County does not pay for emergency care or related transportation.
4. If patients are found to be ineligible for any County program and have no insurance, they shall be considered part of DMC's normal charity care.
5. Because DMC operates as a hospital, it cannot refuse to see any patient based on ability to pay as required in the Emergency Medical and Treatment Active Labor Act (EMTALA).
6. The Omnibus Agreement **does not** address the issue of payment of emergency room physicians' fees.
7. There is no written agreement between the County and CERP.
8. Prior to the signing of the Omnibus Agreement, the CEO of DMC stated publicly at a Stanislaus County Board of Supervisors meeting that DMC would cover all costs related to ER services.

9. The California Healthcare for Indigents Program and Rural Health Services Program (Proposition 99) allocates funds to participating counties. These funds are collected from a tobacco tax imposed on cigarettes.
10. Senate Bill 2132 (SB2132) and Assembly Bill 75 (AB75) define how funds collected by Proposition 99 can be used.
11. The State of California Maddy Fund, created by Senate Bill 612 (SB612), has available funding for emergency medical services including emergency room physicians' fees.
12. Funds from these legislative actions are distributed by the Stanislaus Foundation for Medical Care.
13. In California, hospitals cannot employ physicians; therefore, all ER physicians must contract with the hospital to use the facilities. DMC contracted with CERP to fulfill this obligation.
14. The services provided by the ER physicians are billed separately by CERP.
15. DMC bills patients separately for rooms, equipment and supplies.
16. It is the responsibility of DMC to insure that the emergency room is staffed.
17. The County has never paid for, nor is it obligated to pay for, emergency services for MIA patients.
18. From the documents produced by the complainant, the \$659,352.00 in billing fees were for CERP services only.
19. The County's eleven (11) health care clinics are designed to handle non-emergency health care issues.
20. The County health care clinics, as well as the urgent care(s), are not required to treat patients before checking their ability to pay.
21. The County health care clinics charge a fee for MIA patients determined by their ability to pay. There is a sliding scale fee based on the number of family members, asset limits and income.
22. All non-MIA patients are required to make a \$40.00 (originally \$50.00) co-payment before they are seen at the county health care clinics.
23. Two of these clinics receive federal funds which allow non-MIA patients to be seen

without a co-payment.

24. SCHSA has recently established a pilot program at DMC to help enroll eligible patients into the MIA program.

CONCLUSIONS

The Civil Grand Jury concluded that:

1. The agreement between DMC and the County clearly states that the County shall not be financially responsible for any emergency care.
2. If seriously ill patients come into a County clinic, a referral to DMC ER may be needed.
3. The goal of the health care providers is to ensure patients are referred to the appropriate facility for treatment in a timely manner.
4. In many cases, patients are going to area emergency rooms for non-emergency medical conditions instead of using one of the County clinics.
5. The County established a program to have staff available at DMC to aid in enrolling people in the MIA program.
6. Initially there were weekly meetings between DMC and the County which have since been discontinued. The emergency room physicians group were never included in these meetings.

RECOMMENDATIONS

The Civil Grand Jury recommends that:

1. CERP seek restitution from DMC for unreimbursed expenses and/or uncollectable fees.
2. CERP continue to seek reimbursement from Stanislaus Foundation for Medical Care for monies provided by state legislation.
3. County clinic referrals to DMC ER should only be given to patients who warrant emergency treatment.
4. The County extend the hours at the health care clinics to enhance patient services and to lessen the non-emergency patient load in the emergency rooms throughout the county.
5. The County actively publicize and promote the clinic locations, types of services available, and fees. This information should be available in all clinic locations.
6. Routine meetings be re-established to discuss ongoing patient issues and improve the level of communication between DMC and the County. CERP should be included in these discussions.
7. SCHSA aggressively identify and enroll eligible MIA residents.
8. The County's internal auditors provide annual oversight in the MIA eligibility process.

RESPONSE REQUIRED

per Section 933 [c] and 933.05 of the California Penal Code:

Stanislaus County Health Services Agency (SCHSA).

This final report will be available for public review on the Civil Grand Jury website located at: <http://www.co.stanislaus.ca.us/COURTS/courts/grandjury/index.html> and at the Stanislaus County Main Library, 1500 I Street, Modesto, California 95354.

§933. Comments and Reports on Grand Jury Recommendations

- [c] No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to

matters under the control of the governing body, and every elective county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All such comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

§933.05 Response to Grand Jury Recommendations--Content Requirements

- A. Section 933.05 of the California Penal Code requires that a responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding(s); or
 - (2) The respondent disagrees wholly or in part with the finding(s). If this response is chosen, the respondent will specify that portion of the finding(s) which is disputed and shall include an explanation of the reasons for the disagreement.

- B. As to each Grand Jury recommendation, the responding public officer or agency shall indicate one of the following:
 - (1) The recommendation has been implemented and set forth a summary of the implemented action;
 - (2) The recommendation has not been implemented but will be implemented in the future with a time frame for implementation;
 - (3) The recommendation requires further analysis with an explanation as to the scope of the analysis and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department or governing body being investigated. The time frame shall not exceed six (6) months from the date of publication of the Grand Jury report; and

- (4) The recommendation will not be implemented because it is either not warranted or not reasonable with an explanation as to why the recommendation will not be implemented.
- C. If a finding or recommendation addresses budgetary or personnel matters of a department headed by an elected official, both the Department Head and the Board of Supervisors will respond. The Board of Supervisors response shall be limited to those budgetary or personnel matters over which it possesses decision making authority.

RESOLUTION

WHEREAS, the 2001-2002 Stanislaus County Civil Grand Jury has conducted an investigation and has reached certain conclusions and made recommendations; and

WHEREAS, the Stanislaus County Civil Grand Jury desires to make its *FINAL REPORT* thereof;

THEREFORE BE IT RESOLVED, by the Stanislaus County Civil Grand Jury that the report is hereby adopted as *FINAL REPORT, PART THREE*.

Robert E. Johnson
Civil Grand Jury Foreperson
Fiscal Year 2001-2002
Released on July 2, 2002