HENRY PEREA: Community agreement bad public policy
By Henry Perea
06/14/07 04:33:46

Is it right for the Fresno County Board of Supervisors to sign a legal document that says we don't have a pre-arranged agreement with Community Medical Centers when we do? Of course not.

On June 5, Tim Joslin, Community Medical Centers CEO, wrote in a commentary that providing health care for the Valley's needy is a huge financial challenge.

I wholeheartedly agree. Who would disagree that we need more funds for health care in Fresno County? We need to locate a funding source to help overcome this conundrum. Achieving this objective by using money the federal government has deemed an illegal funding source, however, is not the answer.

In 1996, Community Medical Centers agreed to provide health care services for Fresno County indigents and jail inmates in exchange for $18 million payable in monthly installments. For years, Fresno County and CMC have upheld this deal.

Last year, CMC and the state asked the county to pay the $18 million directly to the state in one lump sum. CMC found a federal program that would match the county's $18 million over three years and feed an additional $54 million into our community for health care. The county only needed to deposit the money into an account with the state, which would in turn work with the feds to get the matching dollars. This type of transaction is known as an intergovernmental transfer. The state assured us this was legal and we happily made the deposit.

Months after this transaction was made, the feds said it was illegal. Regulations require matching funds for Medicaid dollars to only be spent on Medicaid services, and may not be a donation from the provider.

The $18 million the county deposited was linked to health care for indigents and jail inmates and was for the county's contract payment to CMC. Payment diversion is considered a donation from CMC and deemed an illegal funding source.

It became clear, after a thorough legal analysis by county attorneys and confirmed by outside legal counsel with health care law expertise, that the county could not be part of this transaction. Now, as reported in this week's Board of Supervisors meeting, additional outside legal counsel has opined that the transaction is in fact illegal.

This is where it gets sticky. The feds asked the Board of Supervisors to send a letter to the federal government stating we have no prearranged agreement for services with CMC and that the money we are depositing is most likely for Medicaid. It's not. That would be wrong and could actually jeopardize the $18 million that provides health care for the poor.

The major problem with the federal proposal is that the county would be repeating the currently rejected IGT while eliminating the contract language spelling out the transaction. Here's the kicker, while the feds are promising to turn a blind eye, they're seeking public comment on draft federal regulations to disallow federal matching funds for IGTs remarkably reflecting the county's current situation.
The seriousness of this issue was underscored on June 5, when the auditor-controller advised the board that a questionable decision could lead to other financial blunders.

Every June we auction our Tax Revenue Anticipation Note. Underwriters bid on it and the county ultimately gets the best interest rate available for a short-term loan. Potential investors review the county's preliminary offering statement disclosing, among other things, significant financial legal issues.

Our bond lawyers now say we must disclose this potential federal violation to investors. When investors see the details surrounding this IGT, they might not bid, leaving us with higher interest rates. Making a decision that leads to higher interest rates for taxpayers is bad public policy.

It is also bad public policy to give $18 million to CMC without maintaining a contract specifically linking health care money for the Fresno County poor. This would be negligent and leave us with no guarantee taxpayer dollars will be properly spent. Would you take someone’s word that he'll properly spend your $18 million without getting it in writing?

The board is here to serve Fresno County citizens. We must bring more money into the community for health care, and I know we can do it without putting taxpayers and consumers at risk. The county will continue to work with CMC, the state and feds to find a legal way for the current IGT to remain.

Long term, we must ask CMC to partner with the county and ask voters this February to consider a health care initiative to dedicate funds that provide quality care for the poor. It's a legitimate option that will make a difference in health care funding for the county.

We reap what we sow. I propose we sow into health care with good seed knowing that health care funding will abound.

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