

The Virgin Islands Consortium

Attorney General Warns Physicians Against Refusing To Treat Medicaid And Medicare Patients, Says It's Their Contractual Obligation Under V.I. Law

Health / **Published On May 22, 2017 10:27 AM /**

Ernice Gilbert **May 22, 2017**



Medicaid, the healthcare program that assists low-income families or individuals in paying for long-term medical and custodial care costs, which is funded by the federal government and run at the state level, [is set to become available to an additional 19,000 Virgin Islanders](#) following efforts by the Mapp administration to expand the program.

But the expansion will be of little benefit if, as alleged, physicians in the Virgin Islands continue to deny medical services to residents with Medicare and Medicaid.

Attorney General Claude Walker recently responded to a complaint by Dr. Frank Odium, chair of the Virgin Islands Board of Medical Examiners, who alleged that certain healthcare providers in the territory have been denying care to patients on the aforementioned federal programs.

"As stated, I am deeply troubled by the nature of these allegations as one such complaint involves a physician who apparently terminated a patient's care when that patient no longer had private insurance and was placed on Medicare," Mr. Walker wrote. The A.G. then explained in detail the lawful duties of physicians who are wholly or partially employed by the Government of the Virgin Islands in regards to the federally-funded programs.

Citing Virgin Islands law, particularly to private practice physicians who are also employed by the government and are receiving malpractice insurance coverage, Mr. Walker quoted the following portion of the law:

All health care providers who, in addition to their employment with the Government of the Virgin Islands, engage in a private practice and receive financial assistance toward the payment of their medical malpractice insurance premiums under this section, shall accept Medicare and Medicaid for payment of health care services from patients in their private practice, and in addition must provide medical services to veterans of the United States Military Services that are covered by an insurance carrier. The Commissioner of Health, after notice to the health care provider and opportunity for a hearing, shall fine any health care provider the Commissioner determines to be in violation of this subsection \$1,000 for the first violation and for a second violation shall terminate all financial assistance toward the payment of the health care provider's medical malpractice insurance premiums.

The attorney general also cited judicial precedent in explaining the interpretation of the law, stating, "The words 'shall' and 'must' are generally considered mandatory rather than discretionary when interpreting a statute."

"After applying the above-stated rules of statutory construction, it is clear that the words contained within the above-referenced statute are clear on their face and mean exactly what they state: all Virgin Islands government-employed healthcare providers receiving a subsidy from the Government towards the payment of their medical malpractice insurance premiums who also engage in private practice shall accept Medicare and Medicaid patients. The law does not provide for exceptions to this obligation," Mr. Walker wrote.

He added, "Therefore, persons within this class of healthcare providers, who are currently denying medical services to Medicare or Medicaid patients, are in violation of the law, and thus, run the risk of losing their coverage in the government's medical malpractice insurance program and incurring administrative monetary penalties."

The well-researched response is [here](#). Mr. Walker said he hoped it would assist in clarifying the territory's law on the matter, specifically the contractual obligations of healthcare providers' obligation to accept Medicare and Medicaid patients.

"The objective of the above-referenced law and policy is not to burden healthcare professionals, but to discourage practices that in essence slam the door on the poor who are in need of vital medical services," Mr. Walker continued. "Our expectation is not that Virgin Islands healthcare professionals who are covered by the legal authorities and contractual obligations in this letter must provide free medical services to the poor, but that low-income patients, and those on fixed incomes, such as many of our senior citizens, are accorded a measure of dignity when they seek medical care in the Virgin Islands. "

At a Friday press conference at Government House in St. Thomas, Governor Mapp explained that the adjustment by the federal government allowing 19,000 more Virgin Islanders to join the Medicaid program, will amount to an additional \$18 million in federal reimbursements for healthcare, provided to those among the uninsured population at or below the poverty level — which has been increased from \$6,500 to \$11,770.

The local government will now be reimbursed 55 percent to 100 percent of the cost of medical services provided to an adjusted total of 31,000 residents. If the requested increase in the official poverty level had not been approved by the federal government, the local government would have remained responsible for 100 percent of the cost of treating 19,000 individuals previously ineligible, according to Government House.

Mr. Mapp has asked the Legislature to approve the additional \$10 million he has requested to meet the local government's required match, [which the Legislature had rejected](#) during a Thursday Committee on Finance hearing. The amount needed to meet the 45 percent local match requirement, he pointed out, is far less than what it costs to fund 100 percent of uncompensated care, he said.

In justifying his request for the \$10 million appropriation, the governor stated, "The Medical Assistance Program is geared towards helping the most vulnerable in our community."

The governor said he was prepared to go to the Legislature himself, allow lawmakers to question him with the hope that, in the end, they would approve the measure and forward it to his desk for his signature.

"In my kindness tone and my most cooperative tone, I am open, prepared, ready to sit down with the members of the Legislature, roll up my sleeves," the governor said. "I am prepared to sit with the members of the Legislature and let all 15 chew me out; do whatever and say whatever things their good hearts want to say, and when we're finished with that, roll up our sleeves and come up with a solution to these problems for the people of the Virgin Islands."

Mr. Mapp and Department of Human Services Commissioner, Felecia Blyden, said that D.H.S. personnel will begin identifying eligible clients when they require medical or other federally subsidized services, such as SNAP, so that they can be enrolled in the expanded Medical Assistance Program.

This development is expected to greatly improve cash flow at the two local hospitals, which often require cash infusions from the central government because of the amount of uncompensated care provided, according to Government House.

