

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED
APR 30 2003
CLERK'S OFFICE
U. S. DISTRICT COURT
EASTERN MICHIGAN

NORTHLAND FAMILY PLANNING CLINIC, INC., et al.)
Plaintiffs,)
v.)
JANET OLSZEWSKI, et al.)
Defendants.)

Civil Action No.: CV 03-71054
Honorable John Corbett O'Meara

RECEIVED
APR 26 2003
CLERK'S OFFICE
DETROIT

SETTLEMENT STIPULATION

The parties hereby agree as follows:

Plaintiffs have challenged the constitutionality of Subsections (9) and portions of Subsection (11)(c) of Section 17015 of Public Act No. 685 of the Michigan Public Acts of 2002 (hereinafter "the delay in payment provisions"), alleging that those provisions are void for vagueness, violate equal protection rights of physicians who perform abortions and their patients, and violate the due process rights of abortion providers. Defendants disagree with Plaintiffs' reading of the delay in payment provisions, contending that they can be interpreted constitutionally. Plaintiffs and Defendants agree on the following interpretation of the delay in payment provisions, to which the parties agree to be bound:

1. When Abortion Providers May Obtain Payment for Medical Services

Under Mich. Comp. Laws § 333.17015(9), as amended by Public Act No. 685 of the Michigan Public Acts of 2002 ("Public Act No. 685"), a physician or an agent of the physician may request and receive payment, in whole or in part, without delay for a medical service provided to or planned for a patient, except as set forth herein: (1) once a patient has scheduled

B

an abortion to be performed by a physician, neither that physician nor an agent of that physician may collect any payment for medical services until 24 hours after the making of that appointment; and/or (2) once a physician or a qualified person assisting that physician has given the patient in person a copy of the information required under subsection (3)(c), (d), and (e) of Mich. Comp. Laws § 333.17015, neither that physician nor an agent of that physician may collect any payment for medical services until 24 hours after providing that information to the patient. Charges for medical services rendered prior to a patient scheduling an abortion or being given a copy of the information required under subsection (3)(c), (d), and (e) of Section 333.17015 shall not include prepayment or partial payment for an abortion procedure. In conformance with the provisions of Mich Comp. Laws § 333.17015(10), the requirements and restrictions of Subsection 17015(9) do not apply in medical emergencies, as defined in Subsection 17015(2)(d).

2. What Patients Must Certify With Respect to Payment Prior to the Performance of an Abortion

The consent form described in Mich. Comp. Laws § 333.17015(11)(c), as amended by Public Act No. 685 shall contain the following sentence below the signature line:

I understand that I may sign this form if I have made payments to the physician or an agent of the physician, in whole or in part, for medical services provided to or planned for me, as long as I did not make such payments within 24 hours after I scheduled an abortion to be performed by the physician and/or I did not make such payments within 24 hours after the physician or a qualified person assisting the physician personally gave me a copy of the written materials listed in paragraphs (a), (b), and (c) in the consent form above.

3. Costs/Attorneys' Fees

Defendants JANET OLSZEWSKI, in her official capacity as Director of the Michigan Department of Community Health and LINDA HOTCHKISS, M.D., in her official capacity as

Chairperson of the Michigan Board of Medicine, have agreed to settle Plaintiffs' claim for attorneys' fees and costs for work done to date in this case for the sum of \$24,979.00. The Michigan Department of Community Health shall provide Plaintiffs compensation for their attorneys' fees and costs in one payment in the amount of \$24,979.0 sent to Plaintiffs' attorneys no later than June 15, 2003.

4. Continuing Jurisdiction

The parties agree that this Court shall retain jurisdiction solely for the purpose of enforcing the four corners of this Settlement Stipulation.

5. Future Appeal

The parties agree that this Settlement and attached Order fully resolve Plaintiffs' Complaint, and the parties to this agreement shall not appeal the matters resolved therein.

6. Separation of Powers

Both parties agree that this Settlement Stipulation and the attached Order apply to implementation and enforcement of Public Act No. 685 of the Michigan Public Acts of 2002 as it exists on the date hereof and do not foreclose the Michigan legislative process from adopting future amendments to or substitutes for that Act, nor does it foreclose Plaintiffs from challenging such amendments or substitutes, nor Defendants from asserting any defenses thereto.

7. Earlier Settlements Not Superseded

This settlement agreement complements but does not supersede the Settlement Stipulation and Final Order in Northland Family Planning Clinic v. Engler, Civ. Action No. 94-75351 and the Partial Settlement Stipulation and Order Adopting Partial Settlement in Northland Family Planning Clinic v. Granholm, Civ. Action No. 01-CV-70549.


8. Effective Date

Plaintiffs shall comply with the requirements of Public Act No. 685 of the Michigan Public Acts of 2002 and this agreement within sixty days after this settlement is approved by the Court. The delay in payment provisions will not be enforced by Defendants pending approval of this settlement by the Court. During that delay in enforcement, the Plaintiffs need not comply with the delay in payment provisions and will not be liable for not complying with those provisions, but will be obligated during that period to comply with Mich. Comp. Laws § 333.17015 as it existed prior to the passage of Act No. 685.

9. Material Terms/Nullification

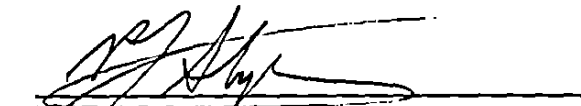
This Settlement Stipulation is contingent upon the Court's entry of the attached Order. If the Court fails to enter the attached Order, this Settlement Stipulation is null and void.

CENTER FOR REPRODUCTIVE RIGHTS


Bebe J. Anderson
Center for Reproductive Rights
120 Wall Street, 14th Floor
New York, NY 10005
(917) 637-3600
Attorneys for Plaintiffs

Dated: April 24, 2003

MIKE COX
Attorney General


Ronald J. Styka (P21117)
Assistant Attorney General
Community Health Division
Attorney General's Office
P.O. Box 30217
Lansing, MI 48909
(517) 373-3488
Attorneys for Defendants

Dated: April 25, 2003