

EXHIBIT 4

JCAR defied_on health program
Governor expands Family Care despite committee's ruling

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The Blagojevich administration has expanded a state health insurance program to cover more adults, even though a legislative committee rejected the proposal earlier this week.

On Tuesday, the legislature's Joint Committee on Administrative Rules turned down the state Department of Healthcare and Family Services' request for an emergency expansion of the Family Care program. The bipartisan panel of lawmakers was established in 1977 to oversee rules proposed for state programs. Its decisions generally are followed.

A spokeswoman for Gov. Rod Blagojevich contended Friday, however, that the committee does not have the ability to stop the Family Care expansion.

"JCAR's role is merely advisory - it does not have the constitutional authority to suspend the regulation," Abby Ottenhoff said in an e-mail.

She pointed to Gov. Jim Thompson's amendatory veto of legislation that expanded JCAR's authority in 1980. Giving the legislative committee the power to determine rules for agencies under the executive branch, Thompson wrote, "would violate the separation and delegation of power provisions of the Illinois Constitution."

Although the legislature overrode Thompson's veto, those constitutional concerns still exist, Ottenhoff said.

When informed Friday evening of the administration's plans to go ahead with the Family Care expansion, Rep. David Leitch, R-Peoria, a member of the legislative panel, said he was not surprised.

"It was clear during the course of the hearing that the advocates for the department were laying a basis for a lawsuit," he said.

Leitch agreed that "the issue, from Day One, the very founding of JCAR, has been a fine line constitutionally between the powers of the executive and legislative branches."

He said believes the committee does have final authority over state rulemaking, but "it hasn't been tested in court, which is what I think they're trying to do."

"The administration may be inviting the legislative branch to sue," Leitch said.

Ottenhoff would only say that the governor's office has no plans of its own to challenge the committee's authority in court.

According to an internal memo obtained Friday by GateHouse News Service, Family Care caseworkers were told to begin signing up Illinoisans who earn as much as 400 percent of the federal poverty level, or \$82,600 for a family of four. The income cap had been 185 percent of the poverty level, or \$38,203 for a family of four.

"The number of individuals with access to affordable medical care will be increased," the memo reads. "This is particularly true for working adults who cannot afford the high cost of insurance premiums or trips to the doctor, hospital, etc. Without this program, these individuals will be subjected to poor or very limited medical care."

Ottenhoff said she had not seen the memo and would not comment on it.

The administration has estimated the expansion would provide health insurance to 147,000 additional adults. Lawmakers have said it would cost \$367 million annually when fully implemented.

In March, Blagojevich announced a program called Illinois Covered that would extend state health insurance to all Illinoisans. The General Assembly, however, objected to his proposed funding method, a tax on business receipts, and the proposal stalled.

This summer, the governor then cut nearly \$500 million from the state budget, an amount akin to the cost of a scaled-down health-care expansion plan. Lawmakers have questioned the constitutionality of using that money, and the governor has since said he will find the funds for health-care expansion elsewhere in the budget.

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