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Virginia Tribe Says Medicaid Dispute Will Sink Healthcare Biz

By **Crystal Owens**

Law360 (April 11, 2025, 4:13 PM EDT) -- The Nansemond Indian Tribe is requesting that a federal court hand down an order that would instruct Virginia to continue processing its more than 130,000 unpaid Medicaid reimbursement claims, arguing that without it, the commonwealth will succeed in driving its healthcare entity out of business.

Fishing Point Healthcare LLC's financial position is at a breaking point at a time when continued access to care remains critical for southeastern Virginia's rural and medically underserved communities, the tribe argued, and it cannot afford any further delay.

"Plaintiffs do not ask for special treatment; they demand only what the law already requires: that defendants take their foot off the neck of a lawfully operating tribal health program; comply with the CMS-approved State Medicaid Plan; and allow Medicaid funds to reach the underserved patients who need medical care. This is the minimum requirement of defendants under both federal and state law," it argued in a Thursday **memo** supporting its motion for a preliminary injunction.

The federally recognized tribe and its healthcare entity **sued** the commonwealth, Gov. Glenn Youngkin, its Department of Medical Assistance Services, its Office of the Secretary of Health and Human Services and various state officials on April 1, saying the state made changes to its Medicaid program without lawful authority in a "systematic" campaign to undermine its sovereign rights.

Under federal law, Medicaid policy changes that affect tribal health programs must go through formal tribal consultation and also win approval from the federal Centers for Medicare & Medicaid Services, the tribe argues.

But Virginia chose to bypass both steps, according to the suit, which contends that the state's actions thus violated the Medicaid Act, the Indian Self-Determination and Education Assistance Act, the Indian Health Care Improvement Act and the U.S. Constitution's Supremacy Clause. The clause establishes that federal law is "the supreme Law of the Land," making any conflicting state law null and void, the suit says.

In 2024 and 2025, Virginia made sweeping Medicaid policy changes that materially harmed Fishing Point's operations by illegally interfering in its business, the tribe alleges.

Specifically, the state unlawfully withheld more than 130,000 reimbursements at the federal "All-Inclusive Rate," which obstructed Fishing Point's enrollment as a Medicaid provider and tried to limit tribal reimbursement eligibility without conducting mandatory tribal consultation or getting the required federal approval, the suit says.

Fishing Point operates under a Title I Contract with the Indian Health Service under the ISDEAA, providing healthcare not only to its own tribal citizens, but also to other American Indian and Alaska Native plus "non-AI/AN" Medicaid beneficiaries, according to the suit.

According to the tribe's Thursday request for a preliminary injunction, a federal audit on the appropriateness of Fishing Point's billing and Virginia's refusal to reimburse found that the healthcare entity's practices were in full compliance with federal law and that the commonwealth had been underpaying on the Medicaid claims it did process.

Those results, the tribe says, were hidden from it for months.

The governor's spokespeople have resorted to labeling Fishing Point's practices as potentially fraudulent, according to the memo, which further "illuminate the irreversible harm that defendants are inflicting on a sovereign tribal nation and its efforts to be of service to its community."

The tribe had asked the court for a temporary restraining order against the commonwealth, but that motion was denied on Tuesday on procedural grounds, it said.

It initially sought ex parte relief due to a "well-founded fear of further retaliation," the tribe said, particularly after discovering that, without notice, the state on March 31 placed its reimbursement claims in a pending status.

This week, the tribe told the court, Virginia officials told Fishing Point that they now intend to reverse course and reimburse a portion of recently pending claims on April 14.

But even if that happens, it argued, the large volume of claims still pending since October 2024 remains reimbursed, and a preliminary injunction is critical to prevent Fishing Point from going out of business.

"Further, the commonwealth will also damage the credibility and trust that Fishing Point has built with its patients and the surrounding community. There will be no resurrection of those services later. Ultimately, the vulnerable patients will be directly harmed and left underserved during a period of confusion and transfer to providers offering inferior care," the tribe told the court.

Counsel for the tribe could not immediately be reached for comment on Friday. A spokesperson for Gov. Youngkin's office did not immediately respond to a request for comment on Friday.

The Nansemond Indian Nation is represented by Jessie Barrington, Gregory A. Werkheiser and Lydia Dexter of Cultural Heritage Partners PLLC.

Virginia is represented by Brian E. Pumphrey, Benjamin L. Hatch, Kathryn M. Barber and John J. Woolard of McGuireWoods LLP.

The case is Nansemond Indian Nation et al. v. Commonwealth of Virginia et al., case number 2:25-cv-00195, in the U.S. District Court for the Eastern District of Virginia.

--Additional reporting by Joyce Hanson. Editing by Vaqas Asghar.