

1 MICHAEL LYON deposes and says:

2 1. I am Co-Convener of the Gray Panthers of San Francisco (SF Gray
3 Panthers) and Co-Chair of its Health Committee. (A co-convenor is a co-CEO of the
4 SF Gray Panthers.)

5 2. A. The SF Gray Panthers is a 501(c)(3) non-profit corporation in San
6 Francisco California, formed under the California Nonprofit Corporation Law. The
7 purposes of the SF Gray Panthers, which are stated in its Articles of Incorporation, are:

8 “The specific and primary purposes are to encourage and develop public
9 awareness and understanding of the problems of the elderly needy and to aid the
10 elderly needy as may be possible and necessary.”

11 B. A true copy of the Articles of Incorporation of the SF Gray Panthers,
12 certified by the California Secretary of State on April 25, 2008, is set forth as **Exhibit**
13 of Petitioners’ Request for Admission of Documents, on file in the within case.

14 C. A true copy of “Certificate of Status Domestic Corporation,” certified by
15 the California Secretary of State on April 25, 2008, showing the SF Gray Panthers is a
16 corporation in good standing, is set forth as **Exhibit** of Petitioner’s Request for
17 Admission of Documents.

18 3. The SF Gray Panthers works on issues of health, racism, immigration,
19 war and militarism, and ageism.

20 4. We have a membership of approximately 150, and work in coalition with
21 other groups on senior, health, housing, social justice, and war/peace issues. Most of our
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1 members are over age 65, though our focus is on recruiting members in the age 50-65
2 group, who will be facing aging or disability issues themselves. Most of our members
3 are on Medicare and approximately 10%, **or at least 15**, of our members are on Medi-
4 Cal.

5 5. A. I also do health work with San Francisco's Senior Action Network
6 (SAN), and the California Alliance for Retired Americans (CARA), both of which have
7 a significant number of seniors on Medicare and Medi-Cal, and people age 50-65 on
8 Medi-Cal but not Medicare. I have also become familiar with Medi-Cal patients of the
9 San Francisco Health Department while working with groups to preserve public health
10 services in San Francisco.

11 B. I have testified many times on behalf of the SF Gray Panthers and
12 health consumers, at meetings of the San Francisco Health Commission, San Francisco
13 Board of Supervisors, and other public agencies, on the subject of the health needs and
14 the access of frail, elderly, and disabled persons to health care services in the San
15 Francisco area.

16 6. California has recently imposed a 10% reduction in payments to Medi-Cal
17 doctors, other medical providers, managed care plans, public hospitals, contracting
18 hospitals, some long-term care facilities, and county mental health programs, beginning
19 July 1, 2008 and extending through fiscal 2008-2009. (Assembly Bill X3 5, enacted
20 and effective Feb. 16, 2008.)

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22 7. This represents a spending reduction of \$544.3 million General Fund in
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1 fiscal year 2008-2009, which commences July 1, 2008. (Senate Analysis, which is
2 **Exhibit of Petitioners' Requests for Judicial Notice** on file in the within case.)

3 8. Based on my experience, I would predict that these provider payment
4 reductions will stress the Medi-Cal system to the point where it breaks, with dangerous
5 consequences to the rest of the medical system. And, many of the 6.7 million low-
6 income elders, disabled people, and kids who depend on Medi-Cal, will not be able to
7 survive, and, at the least, many of them will suffer from untreated illnesses and
8 conditions, at the least.

9 9. In the course of my work I have personally observed Medi-Cal patients
10 already having to wait long periods for medical appointments, particularly for
11 appointments with specialty doctors, due to the lack of medical providers.

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13 A. Medi-Cal patients have told me there is a shortage of primary care
14 doctors who accept Medi-Cal, resulting in longer wait times for appointments when
15 they do find a doctor. Even for services as basic as pre-natal care, women on Medi-Cal
16 in Marin County have to come to San Francisco General Hospital because there are not
17 resources closer to home.

18 B. Medi-Cal patients have told me that even in this doctor-rich city
19 with academic medical centers, it is extremely difficult to find specialty doctors
20 accepting Medi-Cal, and that they can wait many months for appointments. Providers'
21 schedules are so impacted that a small glitch can cause cancellation of an appointment
22 that had been scheduled months in advance. For difficult-to-diagnose cases, patients'
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1 conditions can significantly worsen during these waits. Other Medi-Cal patients I have
2 spoken with have suffered great pain and/or anxiety during long waits for appointments.

3 10. Reaching age 65 does not necessarily shield low-income seniors from the
4 effects of Medi-Cal provider shortages, particularly in the San Francisco Bay Area.

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6 First. Many low-income seniors depend on Medi-Cal because they are not
7 covered by Medicare for their medical care and prescription drug needs.

8 For example:

9 - (a) Citizens who did not work enough years paying FICA payroll taxes
10 for Medicare, and are not married to someone who did, must pay the Medicare Part A
11 premium, which they might not be able to afford, especially, due to the high living
12 expenses which are magnified in San Francisco.

13 - (b) Lawfully admitted non-citizens who did not work enough years
14 paying FICA payroll taxes for Medicare, or who worked those years at unauthorized
15 jobs, do not qualify for Medicare at all, unless they continuously resided here for five
16 years before applying. California and San Francisco have high proportions of immigrant
17 workers and their families.

18 - (c) Many low-income seniors and disabled people who do have
19 Medicare still depend on Medi-Cal to supply services that Medicare does not cover.
20 These “dual-eligible” people depend on Medi-Cal for:

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22 a. **Long Term Care:** Medi-Cal is a major financer of long-
23 term care in California, but San Francisco has a shortage of beds and facilities which

1 will only get worse as provider payments are reduced. Elderly and disabled people are
2 almost 1/3 of San Francisco's population, and by 2020 the City's over-65 population
3 will have increased by 65,000 over two decades, a 57% increase. ("Options For Laguna
4 Honda Hospital White Paper", by Mitchell H. Katz, M.D., Director, Dept. of Public
5 Health, 12/10/98). Nevertheless, as stated to me by Benson Nydell, director of SF
6 Long-Term Care Ombudsman Program, 200 Medi-Cal Skilled Nursing Facility (SNF)
7 beds were lost between 1994 and 2004, and low-income seniors and disabled people
8 needing SNF beds are already sent out of county.

9 **b. Dental care, eyeglasses, and hearing aids:** these services
10 are covered by Medi-Cal (at least for now), but, Med-Cal patients needing them will be
11 impacted by the 10% cut in payments to Medi-Cal dental provider and ophthalmologist
12 providers, which will result in more of them refusing to accept either current or new
13 Medi-Cal patients.

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15 11. Based on my knowledge and experience of the health care situation in San
16 Francisco, I believe that due to the 10% payment reduction to Medi-Cal providers, that,
17 among other things San Francisco's 123,000 Medi-Cal recipients will have longer waits,
18 or give up getting care completely, as more doctors abandon Medi-Cal practice, thus
19 denying access to medical care to these Medi-Cal recipients. .

20 12. Published reports indicate that the provider reductions will endanger
21 community-based clinics and mental health programs. Some examples:

22 -- One clinic attached to USC-California Hospital that treats 4,000 patients in
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1 downtown Los Angeles faces closure because the provider payment cuts will reduce its
2 funding by hundreds of thousands of dollars. Another clinic near Modesto stopped
3 taking new Medi-Cal patients months ago. (“[An Exodus from Medi-Cal](#),” Los Angeles
4 Times, March 24, 2008).

5 13. Published reports indicate that Medi-Cal payments to providers are
6 among the lowest in the nation, and are below provider costs. For example:

7 -- Primary care providers are paid only \$18-\$24 per patient visit. (“[Newsom](#)
8 [Sues California to Stop Medi-Cal Cuts](#)”, California Progress Report, March 26, 2008) .

9 -- In 2001, Medi-Cal physician payments averaged only 65% of Medicare
10 payments for the same services. ([Analysis of 2008-2009 Budget Bill](#) (“[2008-09 Budget](#)
11 [Analysis](#)”), at page C-37, of the California Legislative Analyst).

12 -- California Medi-Cal physicians have not had a payment increase since 2001.
13 ([2008-09 Budget Analysis](#), at page C-37).

14 -- California spends almost 30% less per Medicaid patient than the national
15 average. (“[Medi-Cal Cuts Will Affect Everybody](#),” San Jose Mercury News, Feb. 18,
16 2008).

17 -- More than 350 doctors recently demonstrated at the state Capitol, with the
18 president of the California Medical Association stating that:

19 “Doctors . . . will have to turn patients away and lay off staff if these cuts take
20 effect. Physicians cannot keep their practices running with reimbursements that
21 do not cover the costs of care.” (C.M.A. website, April 15, 2008.)

22 14. The [2008-09 Budget Analysis](#), studies, and newspaper reports show that
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1 large numbers of physicians are leaving Medi-Cal. Specialists, in particular, refuse to
2 accept Medi-Cal patients. Thus:

3 -- In 2001, only 55% of primary care doctors and less than 50% of specialists
4 were willing to accept Medi-Cal patients following the rate increase of that year.

5 (2008-09 Budget Analysis, page C-38).

6 – 85% of the medical directors of federally qualified health centers (FQHC)
7 reported in 2004 that their patients “often” or “almost always” have problems in
8 obtaining specialty care in Medi-Cal in 16 out of 24 specialties surveyed; especially, in
9 neurology, orthopedics, and allergy/immunology; and, with appointments with these
10 specialists, when they are obtained, are often months long. (“Examining Access to
11 Speciality Care for California’s Uninsured,” May 2004, published by California
12 Healthcare Foundation.)

13 – A study which used focus groups of Medi-Cal recipients with disabilities
14 (from both the Medi-Cal fee-for-service program and the Medi-Cal managed care
15 program)., concluded that:

17 A. There is “significant problems in both the Medi-Cal fee-for-service
18 and managed care delivery systems in providing services to
beneficiaries with disabilities.

19 B. “Across the board, participants reported difficulty finding physicians
20 . . . Nearly all participants reported difficulty in locating a primary
21 care physician . . . All focus group participants, regardless of service
model, expressed difficulty with locating specialists.”

22 (“Adults with Disabilities in Medi-Cal: The Beneficiary Perspective,” September 2003,
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published by California Healthcare Foundation.)

– More than 50% of otolaryngologists (ear, eye, and nose specialists) in Southern California refuse to accept children enrolled in the Medi-Cal fee-for-service program, citing low reimbursement rates as a reason. (2008-09 Budget Analysis, at pages C37-C38.)

– Medi-Cal dental rates are among the lowest in the nation; with a result that only 40% of California dentists accept Medi-Cal patients; and the vast majority of these dentists are not orthodontic or pediatric specialists. (“Denti-Cal Facts and Figures: A Look at California’s Dental Program,” March 2007, published by California Healthcare Foundation.)

15. By 2001, the number of available primary care doctors per capita for Medi-Cal patients was 34% less than for the general population; for specialists it was 60% less, and for surgical specialists it was 67% less. (“Nearly Half of State’s Doctors Will Not Treat Medi-Cal Patients,” California Health Care Foundation, June 16, 2003).

16. Also, doctors reported recently to the Los Angeles Times that there is only one cardiologist in the Long Beach area, no neurologist in the San Diego area, and no urologist in the Winters area who will take Medi-Cal patients. And, primary care doctors reported to the Times that they are unable to find specialists willing to take Medi-Cal cases in the San Gabriel area. Thus,

a. Joseph Leonard, a primary care physician in private practice in San Diego, said he stopped taking new Medi-Cal patients years ago. His referrals are

1 routinely refused by specialists because they are unwilling to work for the rates the state
2 pays. Leonard said, "I don't know of a single neurologist in the area who will see a
3 Medi-Cal patient."

4 b. Jeffrey Luther, a primary care physician who treats Medi-Cal patients at
5 a clinic at Long Beach Memorial Medical Center, said he knows of only one
6 cardiologist in the area to whom he can send Medi-Cal patients.

7 c. In the town of Winters, outside Sacramento, family doctor Carla
8 Kakutani can't find a urologist to treat an 8-year-old boy in need of circumcision after
9 some infections.

10 d. Family doctors who treat Medi-Cal patients are spending much of their
11 time on the phone with specialists, "begging and pleading" for appointments, said Paul
12 Sugang, a primary care physician at Dreamweaver Medical Group in San Gabriel.
13 ("An Exodus from Medi-Cal," Los Angeles Times, March 24, 2008).

14 e. A 2006 survey of Sonoma County doctors showed 56% of respondents
15 planned to eliminate or limit their Medi-Cal practice. ("A Reduction in Care," Santa
16 Rosa Press Democrat, April 20, 2008).

17 16. Newspapers tell the personal tragedies that result from this provider
18 shortage:

19 – A Los Angeles resident waited six months to get her 7-year old with spina
20 bifida fitted with leg braces, now cannot get a urologist for his bladder problem. A
21 Patterson mother of two cannot get an appointment for back problems after calling all
22 Medi-Cal providers in the Modesto area. ("An Exodus from Medi-Cal," Los Angeles
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1 Times, March 24, 2008).

2 -- A Petaluma resident with severe rheumatoid arthritis pain who has gone a year
3 without seeing a specialist. ("[A Reduction in Care](#)," Santa Rosa Press Democrat, April
4 20, 2008)

5 17. For all of the above reasons, I believe California's reduction of Medicaid
6 provider payments will endanger the health of low-income patients both in and out of
7 the Medi-Cal system, will endanger clinics and institutions which have served Medi-Cal
8 patients, and will endanger Medi-Cal itself.

9 18. In particular, for the foregoing reasons, the 10% cut in Medi-Cal
10 payments to providers will endanger the health and safety of the approximately 15
11 Medi-Cal recipients who are members of the SF Gray Panthers, in that the cuts will
12 cause more doctors and more specialists than ever to refuse to accept them as patients.

13 I declare under penalty of perjury under the laws of the State of California that
14 the foregoing is true and correct. Executed in San Francisco, California, on April 29,
15 2008.

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MICHAEL LYON