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STATE

Judge weighs injunction to block ICE from using Medicaid data

California Attorney General Rob Bonta is seeking a preliminary injunction in a lawsuit filed last month.

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Last month, California Attorney General Rob Bonta led a coalition of 19 other states that filed a lawsuit challenging plans by the U.S. Department of Health and Human Services to share data on Medicaid patients with the Department of Homeland Security. | Rich Pedroncelli/AP

A federal judge on Thursday weighed whether to issue a preliminary injunction in a legal fight California and several other states are waging to block the Trump administration from using personal information about Medicaid patients for immigration enforcement.

Last month, California Attorney General Rob Bonta led a coalition of 19 other states that [filed a lawsuit](#) challenging plans by the U.S. Department of Health and Human Services to share data on Medicaid patients with the Department of Homeland Security, which oversees immigration enforcement. Doing so, the states contend, would illegally expose confidential information about patients, including their immigration status.

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The case is one of dozens of legal challenges either spearheaded or joined by Bonta against the Trump administration, and comes as immigration enforcement ramps up around the state. Bonta [filed the motion for the preliminary injunction](#), which would temporarily block the data sharing while the case plays out, last month.

At the hearing Thursday, U.S. District Judge Vince Chhabria, an Obama appointee in the Northern District of California, largely heard arguments on whether data privacy laws preclude immigration officials from obtaining patient information from the Centers for Medicare & Medicaid Services.

Attorneys for the states argued in court filings that such an exchange of information violated the Administrative Procedure Act because government agencies are required to follow certain procedures before “amending or abandoning a legislative rule.” They also claimed that the data sharing plan was “arbitrary and capricious” because it did not follow long standing laws and regulations that protect Medicaid data.

In arguing that immigration officials should not be able to access entire Medicaid databases and files, the states’ attorneys referenced several privacy laws, including the Privacy Act, HIPAA, a law that protects patient information from disclosure, and the Social Security Act. If data is shared between government entities, the lawyer argued, it should be done by submitting specific requests for records and individuals.

“The states’ position is that all of those privacy and confidentiality statutes are more specific restrictions that still apply for the most part to all of the authorities that then

allow data sharing,” a lawyer for the states said at the hearing.

Trump administration lawyers dismissed the claim that Medicaid officials misstepped in sharing information with Homeland Security and argued the states’ allegations fall outside the purview of the Administrative Procedure Act.

Chhabria pressed the administration’s legal team on how best to characterize the health agency’s decision to share data with the immigration officials, noting that the move was “a change from long standing policy of these agencies not to share or use this information for immigration enforcement purposes.”

The decision to share the information could be framed in a way that would make it subject to certain notice requirements, which involve allowing public comment — a step the states argue the administration circumvented.

Chhabria mused about whether to rule against the Trump administration on the arbitrary and capricious claim and “leave it to the agency” to consider if the notice and comment rulemaking is necessary.

The administration’s attorney told the judge that he believes the “right remedy is to deny” the preliminary injunction, but said if the court is inclined to grant the states’ request that he would prefer “a limited window for the agency to clean up whatever concerns you identify would be appropriate.”

Chhabria said he would likely issue a decision on the preliminary injunction early next week.