



index

- [north](#)
- [south](#)
- [west](#)
- [faith & values](#)
- [education](#)
- [police/court news](#)
- [lotteries](#)
- [obituaries](#)
- [traffic](#)
- [gas prices](#)
- [photos](#)
- [live cam](#)
- [news graphics](#)
- ap news**
- [minnesota](#)
- [wisconsin](#)
- archive**
- [stories](#)
- [corrections](#)
- [reprints](#)
- [projects](#)
- feedback**
- [news](#)
- [advertising](#)
- [general](#)
- [contact info](#)

Last update: September 15, 2005 at 11:06 PM

Part of Medicaid co-pay law is struck down

Maura Lerner, Star Tribune
September 16, 2005

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Doctors and pharmacists may no longer deny services to Medicaid patients who owe them money for co-payments, a Ramsey County district judge ruled Thursday.

Judge Teresa Warner sided with six Minnesota patients who said they were denied care because they couldn't afford the co-payments, in violation of the federal Medicaid Act.

The patients and two advocacy groups sued the Department of Human Services last year, challenging a 2003 state law that imposed \$1 to \$3 co-payments for drugs and office visits under the state Medicaid program, known as Medical Assistance.

Under the ruling, the co-payments remain, but the judge struck down a provision that allows providers to refuse treatment to someone who owes them past debts.

"This is a very important victory," said Sue Abderholden of the National Alliance for the Mentally Ill -- Minnesota chapter, which had joined in the lawsuit. "Many people with mental illness and other disabilities have been denied medicines because they could not afford a co-payment," she said. "Their ability to function and lead a full life was threatened."

But Brian Osberg, assistant commissioner of human services, called the decision disappointing, and said his agency will consider whether to appeal. He said it raises the question of how the state can have "an enforceable co-payment provision."

Federal law allows co-payments but says patients are entitled to care even if they can't afford them.

Abigail Turner, a Legal Aid Society lawyer who handled the suit, estimated that thousands of Minnesotans have been denied care because they couldn't afford co-payments.

She had argued that the state had created a loophole for providers to deny care. The Minnesota law said they could refuse care for unpaid debts, if that was their routine practice.

Judge Warner said that provision "directly conflicts with federal statute."

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However, she refused to order compensation to patients who had made the co-payments under protest.

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