



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

SUSAN RODDE, KENNETH  
YOUNGER, and ANTONIO  
GAXIOLA, et al.,

Plaintiffs,

vs.

DIANA BONTA, R.N., DR. P.H.,  
COUNTY OF LOS ANGELES,  
THOMAS L. GARTHWAITE,  
M.D., and DOES 1-10,

Defendants.

CV 03-1580 FMC (PJWx)

**ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

This matter is before the Court on Plaintiffs' Motion for Preliminary Injunction. (Docket # 17.) The matter came on for hearing on April 28, 2003, at which time the parties were in possession of the Court's tentative ruling to grant the preliminary injunction. At the conclusion of oral argument, the Court authorized further briefing by the parties.

On April 29, 2003, the Court issued a Temporary Restraining Order, precluding the County Defendants from terminating or reducing inpatient and outpatient medical services at Rancho Los Amigos National Rehabilitation

1 Center, pending further Order of Court.

2 Since the April 28 hearing, the Court has read and considered the  
3 following supplemental documents: County Defendants' Supplemental  
4 Pleading to Clarify Issues; County Defendants' Memorandum re Legal  
5 Conclusions; County Defendants' Objections to Plaintiff's Proposed Order;  
6 County Defendants' Supplemental Evidence; State Defendants' Response to  
7 County's Memorandum; Plaintiffs' Additional Exhibits; Plaintiffs' Further  
8 Brief; State Defendants' Response to Additional Proposed Orders; Plaintiffs'  
9 Objections; and Plaintiffs' Proposed Revised Preliminary Injunction.

10 For the reasons and in the manner set forth below, the Court hereby  
11 **GRANTS** Plaintiffs' Motion for Preliminary Injunction as to the County  
12 Defendants only.

13  
14 **Introduction**

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16 Plaintiffs are persons with disabilities, who are Medi-Cal recipients; they  
17 receive medical and rehabilitative inpatient or outpatient services from Rancho  
18 Los Amigos National Rehabilitation Center (hereinafter "Rancho" or "the  
19 Center.") They seek an injunction to prevent the closure of the Center, which  
20 closure is currently scheduled to occur on June 30, 2003.

21 Plaintiffs have made a very strong showing of substantial probability of  
22 success on the merits at trial, with clear and compelling evidence of irreparable  
23 injury which they will otherwise suffer. Contrasted with the potential economic  
24 harm to defendants, the Court finds the balance of hardships substantially  
25 favors plaintiffs' request. *Arcamuzi v. Continental Air Lines, Inc.*, 819 F.2d. 935,  
26 937 (9<sup>th</sup> Cir. 1987). Public interest clearly favors the granting of the injunction.

1 *See American Motorcyclist Ass'n v. Watt*, 714 F.2d. 962, 965 (9th Cir. 1983) The  
2 Court will issue the preliminary injunction.

3 Plaintiffs seek an injunction against the Director of the State Department  
4 of Health Services, (hereinafter, "the State"), the County of Los Angeles, and  
5 the Director of the County Department of Health (hereinafter, "the County"),  
6 precluding them from closing Rancho until they can assure that the class  
7 members will continue to receive comparable medical services. Defendants  
8 essentially argue that neither is subject to such an injunction. The County  
9 contends that it is not in violation of any federal laws or regulations, because it  
10 is the State which is charged with the responsibility of complying with federal  
11 rules implementing the Medicaid program. On the other hand, the State argues  
12 that it is the County which runs Rancho, and only the County has the power to  
13 shut it down.

14 Against this backdrop, we first examine objections to evidence, and then  
15 examine the evidence presented in connection with this application and the  
16 applicable law.

### 17 18 **Objections to Evidence** 19

20 Defendants object to a great deal of Plaintiffs' evidence. Many of  
21 Defendants' objections are lacking in merit and appear to be boiler-plate  
22 objections. Plaintiffs correctly note that Defendants object to a number of  
23 passages in a number of declarations, then specify several grounds for those  
24 objections, making it difficult to determine if Defendants object on all the  
25 grounds stated to all the passages cited.

26 Many of the Defendants' objections mirror those made in opposition to  
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1 the Motion for Class Certification. The Court's discussion in its April 29, 2003,  
2 Order Granting Plaintiffs' Motion for Class Certification applies to the present  
3 objections as well.

4 One additional category of evidence warrants separate discussion here.  
5 Plaintiffs have offered the declarations of several doctors who work in Los  
6 Angeles County facilities other than Rancho Los Amigos. These doctors  
7 discuss the potential impact closing Rancho Los Amigos will have upon the  
8 operations of these other County facilities. Their declarations are not  
9 objectionable, as they are based on the personal knowledge of the declarants  
10 concerning the operations of the facilities in which they work.

11 Defendants' many objections are overruled.

12 In any event, the Court, in considering a request for preliminary  
13 injunction, has the discretion to consider evidence that would otherwise be  
14 inadmissible at trial. *See Flynt Distribution Co., Inc. v. Harvey*, 734 F.2d 1389,  
15 1394 (9th Cir. 1984) (citing *Wright & Miller, Federal Practice and Procedure*, s.  
16 2949).

### 17 18 **Statutory Background** 19

20 The Medicaid Program provides federal funds to states which pay for  
21 medical treatment for the poor. The program was established in 1965 as Title  
22 XIX of the Social Security Act (42 U.S.C. §1396, et seq.) The Act provides  
23 "federal financial assistance to states that choose to reimburse certain costs of  
24 medical treatment for needy persons." *Harris v. McRae*, 448 U.S. 297, 301, 100  
25 S.Ct. 2671, 2680, 65 L.Ed.2d. 785 (1980) Although participation in the program  
26 is voluntary, "participating states must comply with certain requirements  
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1 imposed by the Act and regulations promulgated by the Secretary of Health and  
2 Human Services.” *Wilder v. Virginia Hosp. Ass’n*, 496 U.S. 498, 502, 110 S.Ct.  
3 510 (1989)

4 California participates in the Medicaid program through Medi-Cal, and  
5 the State Department of Health Services is the agency responsible for  
6 implementing the program in compliance with federal law. The Social Security  
7 Act requires participating states to ensure that inpatient and outpatient hospital  
8 services are available to persons entitled to Medi-Cal services. Those persons  
9 must receive medically necessary and appropriate services on a timely basis, and  
10 must have access to such services which is comparable to that available to  
11 persons in the community who have private health coverage. 42 U.S.C.  
12 §§13961, 1396d.

13  
14 **FINDINGS OF FACT**

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16 **Impact of Closure on Plaintiffs and Prospective Class Members**

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18 Rancho serves more than 9500 patients per year through its inpatient and  
19 outpatient programs. On average, approximately 50% of Rancho’s patients are  
20 covered by Medi-Cal. Rancho is a facility in which services to the severely  
21 disabled have been consolidated, providing a rare opportunity for the most  
22 seriously handicapped persons to receive full care in one location for their  
23 multiple conditions. According to the declarations of many members of the  
24 medical community, Rancho is unique in the rehabilitation services it offers to  
25 many of the most complicated and difficult-to-treat patients in the county.

26 The needs of the plaintiffs are demonstrated in the following examples:  
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1 Plaintiff, Susan Rodde, suffers from cerebral palsy, quadriplegia, scoliosis,  
2 leaking heart valves, and is confined to a wheel chair. She currently receives  
3 outpatient services through the following Rancho clinics: dental, urological,  
4 internal medicine, orthopedic, women's, occupational therapy, physical therapy,  
5 and seating. Her condition is complicated by numerous related medical  
6 problems, including pressure sores, arthritis, and allergies. She benefits greatly  
7 from the coordination of treatment available at Rancho for her many medical  
8 problems.

9 Plaintiff, Kenneth Younger, is a quadriplegic due to a spinal-cord injury,  
10 and confined to a wheel chair. He utilizes and receives treatment from the  
11 following Rancho clinics: occupational therapy, physical therapy, pressure  
12 management, recreational, urology, social services, and psychological  
13 counseling. He is also dependent on the many interrelated services available to  
14 him only at Rancho.

15 Plaintiff, Antonio Gaxiolo, is an eight-year-old boy with muscular  
16 dystrophy. He uses a wheelchair and requires a ventilator to breathe. He faces  
17 major risks from respiratory and other infections and from skin breakdowns.  
18 Rancho's team closely examines him to help prevent these complications.

19 The Court finds that if Rancho closes, many of the needs of these patients,  
20 and hundreds like them, could not and would not be met in the Los Angeles  
21 community. According to plaintiff's expert, Dr. Alan Sager, closing Rancho  
22 will harm many of its Medi-Cal inpatients and outpatients, who will not be able  
23 to obtain adequate substitute care at surviving hospitals or other settings. Dr.  
24 Ed Newton, Interim Chair of the Emergency Department at County USC,  
25 opines that closing Rancho would be a disaster. He knows of no other facility  
26 that will take uninsured patients requiring rehabilitation care. The same  
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1 opinion is rendered by Dr. Brian Johnston, Chair of the Department of  
2 Emergency Medicine at White Memorial Hospital: "To take these patients out  
3 of the Rancho environment and drop them elsewhere is simply outrageous.  
4 The current county system cannot absorb them."

5 Dr. Sager believes that well over one-half of the Medi-Cal patients  
6 currently being treated at Rancho will not be able to secure comparable  
7 alternative services from other rehabilitation providers, because of a "lack of  
8 available beds, lack of available clinicians, lack of adequate financing, and lack  
9 of adequate care of comparable coordination, continuity, experience, and overall  
10 clinical effectiveness." Many witnesses believe that because of an increasing  
11 unwillingness on the part of care-givers to take on new Medi-Cal patients,  
12 Rancho's patients will not be able to secure medical care.

13  
14 **Impact of Closure on Defendants**  
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16 The County explains that the decision to close Rancho was part of an  
17 overall plan to bring the services of the Department of Health in line with  
18 available revenue. In 2000, the County entered into an extension to the  
19 "Demonstration Project for Los Angeles County" to continue to assist the  
20 County in restructuring its health-care delivery system, to ensure its long-term  
21 viability and reduce the County's reliance on federal demonstration revenue.  
22 This extension, projected to run from July 1, 2000, through June 30, 2005, will  
23 provide the County with an additional \$900,000,000 in federal funding. (State  
24 Exh. 2000) Because the funding for the Demonstration Project was "front-  
25 loaded," the County Department of Health Services, in fiscal year 2001-2002,  
26 projected a budget shortfall which, in spite of the additional revenue, would  
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1 reach \$709 million dollars by the close of fiscal year 2005-6.

2       However, the evidence before the Court concerning the impact of closure  
3 on projected deficits is unconvincing. Fred Leaf, Chief Operating Officer of  
4 the County Department of Health Services, testified that the closing of Rancho  
5 will save the County approximately \$58.6 million per year. This figure is  
6 arrived at by taking the approximately \$70 million per year that the County  
7 loses operating Rancho, and deducting the expenses, such as bond  
8 indebtedness, which would continue after closure. (Leaf Deposition, pages 26-  
9 27)

10       The fallacy in this calculation is that it does not factor in the added cost  
11 to the County of providing services to Rancho's patients at other County  
12 institutions. "If Rancho's care to Medi-Cal patients is dispersed to other  
13 hospitals in Los Angeles County, the cost of providing comparable services to  
14 treat these Medi-Cal patients can be expected to be greater than it is today.  
15 That is because Rancho has been able to achieve economies of scale through  
16 higher volume and greater expertise. It serves its seriously disabled patients  
17 more effectively and efficiently...Further, if Medi-Cal patients displaced by  
18 Rancho fail to obtain substitute outpatient care that is as clinically appropriate  
19 and effective as that provided by Rancho, patients who had been stabilized and  
20 rehabilitated by Rancho, and who had been served principally as outpatients,  
21 can be expected to de-stabilize and become more disabled. That will engender  
22 a higher volume of need for inpatient care than prevails today. And it can be  
23 expected that a high share of this additional volume will flow to surviving  
24 County DHS hospitals." (Sager Dec., pages 13 and 31)

25       It is abundantly clear to the Court that the harm to the plaintiffs if Rancho  
26 closes, far outweighs the harm to the County if it remains open.



1  
2 **CONCLUSIONS OF LAW**

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4 The Court is satisfied that the closure of Rancho as currently planned  
5 would violate federal law. Defendants have provided the Court with evidence  
6 of plans under way, and committees which have been formed, to assist in the  
7 transition of patients to new providers. No evidence indicates, however, that  
8 successful transition can be completed by June 30, even for Rancho's inpatients.  
9 As to outpatients, although defendants are willing to attempt to assist them to  
10 find alternative medical care, they erroneously assert that they are not legally  
11 obligated to do so.

12  
13 **Compliance with Medicaid Requirements**

14  
15 It is well settled that under the Medicaid provisions of the Social Security  
16 Act and regulations promulgated thereunder, a participating state must comply  
17 with the conditions embodied in the Social Security Act (42 U.S.C. §§1396 et  
18 seq). In so doing, it must provide equal access to medical care to Medi-Cal  
19 recipients. "According to the House Budget Committee report, the test for  
20 evaluating access is to compare the access of Medicaid recipients living in a  
21 specific geographic area with the access of individuals in the same area who  
22 have private or public insurance coverage. [citations]" *Clark v. Kizer*, 758 F.  
23 Supp. 572 (E.D. Cal. 1990), *vacated in part on other grounds*, 967 F.2d 585 (9th Cir.  
24 1992). "State Medicaid plans must provide that the amount, duration, and  
25 scope of each covered service will remain sufficient or reasonably achieve the  
26 purpose of the service provided. 42 C.F.R. §440.230(b)." *J.K. v. Dillenberg*, 836

1 F.Supp. 694, 697 (1993)

2 The County contends that these provisions apply to the state, not the  
3 county, and that the Court therefore has no authority to enjoin its conduct. The  
4 Court disagrees. In the November 2001 “Contract for Hospital Inpatient  
5 Services” entered into between the County and the State, the County (identified  
6 as the “Provider”) made the following commitment:

7 “6.5 Conformance with Federal Regulations.

8 The Provider stipulates that this Contract, in part, implements  
9 Title XIX of the Federal Social Security Act and, accordingly, covenants  
10 that it will conform to such requirements and regulations as the United  
11 States Department of Health and Human Services may issue from time to  
12 time, except for those provisions waived by the Secretary of Health and  
13 Human Services.”

14 That contractual provision binds the County to its obligation to adhere  
15 to, follow, and apply applicable federal regulations in exchange for the funds  
16 received from the Federal Medicaid Program. See *J.K. v. Dillenberg, supra*, 836  
17 F.Supp. at 19. It would be unjust in the extreme to conclude that a County  
18 could receive hundreds of millions of dollars in federal funding to manage its  
19 Medi-Cal program, and yet be free to ignore the conditions imposed by the  
20 federal government. The County defendants must comply with the statutes and  
21 regulations which accompany participation in the Medicaid program.

22  
23 **Jurisdiction**

24  
25 County defendants argue that the separation-of-powers doctrine precludes  
26 this Court’s interference in the legislative decision of the County Board of  
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1 Supervisors at issue in this case. Defendants cite *County of Butte v. Superior*  
2 *Court*, 176 Cal.App.3d. 693, 699 (1985) for the proposition that a court should  
3 not interfere with a government's budgetary decisions. The Court agrees with  
4 the general proposition cited, but it has no bearing on the case at hand. At issue  
5 here is the right of a federal court to determine whether the actions of a  
6 governmental agency are in violation of federal laws, a classic subject of federal  
7 jurisdiction. *Lindy v. Lynn*, 501 F.2d. 1367, 1369 (3<sup>rd</sup> Cir. 1974), 28 U.S.C. §1331.

8 The Court agrees with the following observations in *Bass v. Richardson*,  
9 338 F.Supp. 478, 482 (S.D.N.Y. 1971): "The right at issue is the proper  
10 administration of a program to which billions of dollars of federal funds have  
11 been committed and where Congress explicitly and repeatedly expressed  
12 concern that the program be rigorously and properly operated. If any case is  
13 proper for adjudication of important federal rights and issues of federal law by  
14 a federal court, it is this case."

### 15 16 **Americans with Disabilities Act**

17  
18 The Court also finds that an injunction is appropriate based on plaintiffs'  
19 claims under the Americans with Disabilities Act. Title II of the Americans  
20 with Disabilities Act, 42 U.S.C. §§ 12131-12165 ("ADA"), prohibits  
21 discrimination in public services, programs, or activities: "[N]o qualified  
22 individual with a disability shall, by reason of such disability, be excluded from  
23 participation in or be denied the benefits of the services, programs, or activities  
24 of a public entity, or be subjected to discrimination by such entity." 42 U.S.C.  
25 § 12132.

26 The ADA defines a disability as "a physical or mental impairment that  
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1 substantially limits one or more of the major life activities of [an] individual.”  
2 42 U.S.C. § 12102, 28 C.F.R. § 35.104. Title II defines a “qualified individual  
3 with a disability” as “an individual with a disability who, with or without  
4 reasonable modifications” is otherwise eligible to receive services from the  
5 public entity. 42 U.S.C. § 12131(2).

6 The implementing regulations expand on the Title II prohibition against  
7 discrimination:

8 (b)(1) A public entity, in providing any aid, benefit, or service, may  
9 not, directly or through contractual, licensing, or other  
10 arrangements, on the basis of disability—(i) Deny a qualified  
11 individual with a disability the opportunity to participate in or  
12 benefit from the aid, benefit, or service; (ii) Afford a qualified  
13 individual with a disability an opportunity to participate in or  
14 benefit from the aid, benefit, or service that is not equal to that  
15 afforded others; [or] (iii) provide a qualified individual with a  
16 disability with an aid, benefit, or service that is not as effective in  
17 affording equal opportunity to obtain the same result, to gain the  
18 same benefit, or to reach the same level of achievement as that  
19 provided to others . . . .

20 28 C.F.R. § 35.130(b)(1). Similarly, the implementing regulations prohibit  
21 operating a public entity in a manner that results in prohibited discrimination:

22 (3) A public entity may not, directly or through contractual or other  
23 arrangements, utilize criteria or methods of administration: . . . (ii)  
24 That have the purpose or effect of defeating or substantially  
25 impairing accomplishment of the objectives of the public entity’s  
26 program with respect to individuals with disabilities . . . .

1 28 C.F.R. § 35.130(b)(3)(ii).

2 Plaintiffs argue that the County made a decision to serve qualified  
3 individuals with disabilities at Rancho, and that, having made this decision,  
4 they may not now, consistent with the ADA, eliminate services at Rancho. The  
5 Court agrees that the evidence of record demonstrates a likelihood of success on  
6 Plaintiffs' ADA claim and that a preliminary injunction should issue.

7 The evidence of record amply demonstrates that Rancho serves a large  
8 number of qualified individuals with disabilities. *See, e.g.*, Exh. 8, Chambers  
9 Declaration (Rancho serves patients with diabetic foot complications, including  
10 amputees); Exh. 10, Chui Declaration (Rancho cares for 2000 persons with  
11 newly diagnosed spinal cord injury, traumatic brain injury, and stroke, as well  
12 as for patients with chronic neurological and medical illnesses (multiple  
13 sclerosis, heart and liver disease, diabetes, arthritis, Alzheimer's disease)); *see*  
14 *generally* Exh. 53 (Gill/Balsano Consulting Report).

15 The evidence of record also amply demonstrates that, under existing  
16 circumstances, the qualified individuals with disabilities who receive care at  
17 Rancho would be excluded from participation in or be denied the benefits of  
18 Medi-Cal in the event of Rancho's closing or reduction in services. *See, e.g.*,  
19 Exh. 10, Chui Declaration (closing of Rancho would exacerbate an existing  
20 shortage of acute rehabilitation beds in Los Angeles County); Exh. 12, Debord  
21 Declaration (unable to refer patients to other providers because waiting lists  
22 were too long); Exh. 16, Finocchiaro Declaration (other providers lack  
23 equipment necessary to make services physically accessible); Exh. 18, Gilgoff  
24 Declaration (Rancho is the only comprehensive rehabilitation hospital available  
25 for children with muscular dystrophy); Exh. 19, Goldman Declaration (of the  
26 71 neurologists who accept referrals from the National Multiple Sclerosis  
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1 Society, none will accept Medi-Cal patients); Exh. 51, Wunch Declaration (have  
2 not found locations that can handle children and adults on ventilators); Exh.  
3 120, Gaxiola Declaration (unable to obtain referral for disabled child in the  
4 event of Rancho's closing); Exh. 21, Hagy Declaration and Exh. 11, Daggett  
5 Declaration (dental care unavailable for physically disabled). There is  
6 additional evidence that the closing of Rancho can lead to denial of benefits to  
7 the disabled in that they will receive inadequate or harmful medical treatment  
8 due to the lack of access to the specialized medical expertise available at  
9 Rancho. *See, e.g.*, Exh. 4, Aceves Declaration (inadequate care because medical  
10 personnel not familiar with disability); Exh. 33, Maki Declaration (similar);  
11 Exh. 34, Montes Declaration (similar); Exh. 38, Perry Declaration (similar);  
12 Exh. 47, Thome Declaration (similar).

13 The evidence also demonstrates the severe, irreparable harm to Plaintiffs  
14 in the absence of a preliminary injunction. This harm takes the form of not  
15 only lack of access to preventive care, but also medical complications,  
16 amputations, increased risk of death, infection, organ failure, and loss of  
17 functional ability. *See, e.g.*, Exh. 12, Debord Declaration; Exh. 8, Chambers  
18 Declaration; Exh. 10, Chui Declaration; Exh. 16, Finocchairo Declaration; Exh.  
19 18, Gilgoff Declaration; Exh. 31, Laidlaw Declaration (average twelve-hour wait  
20 in emergency room); Exh. 82, Sager Report (Plaintiffs' expert report); Exh. 141,  
21 Scott Declaration.

22 The evidence also demonstrates that the public interest favors the  
23 granting of an injunction. Plaintiffs have presented a great deal of evidence,  
24 mostly from doctors who work in the Los Angeles County health care system,  
25 regarding the pressure that the closing of Rancho would place on already  
26 incredibly overburdened health care facilities. *See, e.g.*, Exh. 15, Fanous  
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1 Declaration; Exh. 19, Goldberg Declaration; Exh. 21, Johnston Declaration;  
2 Exh. 26, Kaufman Declaration; Exh. 32, Leverso Declaration; Exh. 35, Newton  
3 Declaration; Exh. 121, Sandhu Declaration (and accompanying report).

4 As noted in a previous section, the Court has no difficulty concluding that  
5 the harm to Plaintiffs absent an injunction far outweighs the harm to County  
6 if an injunction is issued.

7 Defendants argue that Plaintiffs must establish intentional  
8 discrimination, and that they must establish that they were denied benefits or  
9 excluded from participation in services *solely* on the basis of their disabilities.  
10 Defendants' argument finds its roots in the language of the Rehabilitation Act:

11 No otherwise qualified individual with a disability . . . shall, *solely*  
12 by reason of her or his disability, be excluded from the participation  
13 in, be denied the benefits of, or be subjected to discrimination under  
14 any program or activity receiving Federal financial assistance.

15 29 U.S.C. § 794(a) (emphasis added). Title II's prohibition of discrimination,  
16 however, does not require that discrimination be solely on the basis of  
17 disability. *See* 42 U.S.C. § 12132. Indeed, the implementing regulations and the  
18 case law make clear that no intent to discriminate is required to run afoul of  
19 Title II. *See* 28 C.F.R. § 135.130(b)(3)(i)-(ii) (prohibiting administrative  
20 policies that have the effect of discriminating against the disabled); *Alexander*  
21 *v. Choate*, 469 U.S. 287, 292-97, 105 S. Ct. 712 (1985); *Crowder v. Kitagawa*, 81  
22 F. 3d 1480, 1486 (9th Cir. 1996) (alleged violations of Title II are not analyzed  
23 using frameworks of disparate treatment or disparate impact; rather, the Court  
24 must merely inquire whether the disabled are denied "meaningful access" to  
25 state-provided services); *Concerned Parents to Save Dreher Park Center v. City of*  
26 *West Palm Beach*, 846 F. Supp. 986, 991 n.12 (S.D. Fla. 1994).

1 Defendants also argue that Plaintiffs have no ADA claim because the  
2 County is not required to provide Medicaid benefits. Defendants' argument  
3 misses the point. Title II of the ADA does not require that any particular  
4 benefits or services be provided by a public entity; rather, Title II requires that  
5 benefits or services that are provided must be distributed in a manner that does  
6 not discriminate against the disabled. *See Concerned Parents*, 846 F. Supp. at  
7 991-92.

8 Defendants argue that the present proposal is similar to the budget cuts  
9 examined by the Supreme Court in *Alexander*. In *Alexander*, the Court held that  
10 facially neutral reductions in services do not result in an ADA violation.  
11 However, in contrast to *Alexander*, there is ample evidence before this Court  
12 that convinces it that the County's proposal has a vastly disproportionate impact  
13 on the disabled — one that effectively excludes them from the participation in  
14 and denies them benefits of the services and programs of the County in a  
15 manner that violates the ADA.

16 Defendants rely on two Second Circuit cases: *Lincoln Cerpac v. Health and*  
17 *Hospitals Corporation*, 147 F.3d 165 (2d Cir. 1998), and *Wright v. Giuliani*, 230  
18 F.3d 543 (2d Cir. 2000). The Court finds neither case persuasive. In *Lincoln*  
19 *Cerpac*, the court reasoned that the disabled are entitled only to the same  
20 medical care as the nondisabled under the ADA. This reasoning is too  
21 simplistic. By definition, the disabled will require more extensive care than the  
22 nondisabled; the medical needs of, for instance, the wheelchair-bound  
23 parapalegic will necessarily differ from those of an ambulatory patient. Title II  
24 guarantees equal participation in public benefits, including, where the public  
25 entity chooses to provide Medicaid benefits, equal access to adequate medical  
26 care. Additionally, this case is factually distinguishable from *Lincoln Cerpac*.



1 There is no indication in *Lincoln Cerpac* that moving the health care facility at  
2 issue in that case would result in the disproportionate denial of services to the  
3 disabled that is evident in the present case.

4 *Wright* is also factually distinguishable. The Second Circuit found that the  
5 district court did not abuse its discretion in denying a request for preliminary  
6 injunction where the record was insufficiently developed. From the evidence  
7 in *Wright*, the Court could not determine whether the relief sought would afford  
8 meaningful access to housing and other benefits for homeless persons who were  
9 HIV-positive. Additionally, Plaintiffs correctly point out that in *Wright*, the  
10 preliminary injunction sought would have altered, rather than merely  
11 preserved, the status quo.

12 This Court's decision is consistent with that of *Concerned Parents to Save*  
13 *Dreher Park Center v. City of West Palm Beach*, 846 F. Supp. 986 (S.D. Fla. 1994).  
14 In *Concerned Parents*, the city, faced with budget cuts, reduced the funding of its  
15 "Department of Leisure Services", which resulted in elimination of a number  
16 of programs for the disabled. The court granted a preliminary injunction  
17 pursuant to Title II of the ADA because the budget cuts had the effect of  
18 denying to the disabled the benefits of the city's recreational services.

19 The evidence presented here leads the Court to the inescapable conclusion  
20 that the County's proposal would lead to the denial to Plaintiffs of meaningful  
21 access to public services in violation of the ADA. *See Crowder*, 81 F.3d at 1486.

### 22 23 **State Defendants**

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25 The Court agrees that, although the State has both the authority and the  
26 obligation to oversee the County's compliance with the Social Security Act, it  
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1 does not have the right to close a particular county facility, nor has it threatened  
2 or attempted to do so. No injunction will issue against the State defendants.

3  
4 **Conclusion**

5 For the reasons stated herein, the Court issues the following preliminary  
6 injunction:

7 Defendants, County of Los Angeles and Thomas L. Garthwaite, M.D., the  
8 current Director of the Los Angeles County Department of Health Services, and  
9 their successors in office, agents, servants, employees, attorneys, and all persons  
10 in active concert therewith are enjoined from closing Rancho Los Amigos  
11 National Rehabilitation Center (“Rancho”), or terminating reducing or making  
12 any further reductions in any inpatient or outpatient medical services,  
13 including remedial services, at Rancho which are covered by the Medi-Cal  
14 program until defendants County of Los Angeles and Dr. Garthwaite can assure  
15 the Court that plaintiffs and members of the class will continue to receive  
16 comparable inpatient or outpatient services from other Medi-Cal providers in  
17 Los Angeles County and that they will receive these inpatient or outpatient  
18 services in a timely manner and to the same extent as members of the general  
19 population; and/or that plaintiffs and members of the class will continue to have  
20 the same access to inpatient and outpatient services at other health care facilities  
21 within the Los Angeles County health care system that they experienced at  
22 Rancho as of the filing of this lawsuit on March 6, 2003.

23 It is further ordered that this preliminary injunction will remain in full  
24 force until the final judgment of this Court, or until further Order of this Court,  
25 whichever occurs first.

26 It is further ordered that Plaintiffs need not post any bond in connection  
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1 with this preliminary injunction. *See Friends of the Earth v. Brinegar*, 518 F.2d.  
2 322, 323 (9<sup>th</sup> Cir. 1975); *People ex rel. Van de Kamp v. Tahoe Regional Plan*, 766  
3 F.2d. 1319, 1325 (1985), *amended on other grounds*, 775 F.2d 998 (9th Cir. 1985).

4 Dated: May 6, 2003

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7 FLORENCE-MARIE COOPER, JUDGE  
8 UNITED STATES DISTRICT COURT  
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