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Medicare case before Supreme Court

By DENNIS BUECKERT

OTTAWA (CP) - The foundations and limits of medicare could be recast by two court cases at the Supreme Court this week.

One of the cases could destroy the very basis of universal medicare, while the other would, if upheld, improve the system by bringing in more services.

In the first case, Quebec doctor Jacques Chaoulli and his patient, George Zeliotis, claim their constitutional rights have been violated by a Quebec law which prevents payment for medically necessary services.

The other provinces have similar laws to prevent people from buying their way to front of the line. If the Chaoulli-Zeliotis case is successful all the laws would topple.

Zeliotis was obliged to wait about a year for a hip replacement in 1997, and says he should have been able to pay for quicker service.

Chaoulli has long campaigned for the right to set up a private medical business, and once went on a hunger strike over the issue. He is being supported by a number of companies in the health field.

Critics say that if the case succeeds, Canada could be forced into a two-tier health system, something which no political party dares to openly advocate.

"I don't think Canadians realize the brinkmanship that's being played here," said Mike McBane of the Canadian Health Coalition.

Armine Yalnizyan, a Toronto economist who has written extensively on health care, said the case reflects a concerted effort in Canada to break down restrictions on for-profit health care.

"I think it's partly driven by serious concerns about timely access to health care, but there is that cadre of people who see the opportunity to make money, and they are not small in number," Yalnizyan said.

"There's more money than we've ever seen being infused into health care and you think people aren't interested in making a claim on that?"

Nola Ries, a law professor at the University of Alberta, says the court could propose a number of remedies in the case without striking down medicare. For example, it could order the government to reduce waiting lists.

In the second case, the family of a child with autism is arguing his constitutional rights have been violated by the B.C. government's refusal to pay for his treatment.

If the court rules the child is entitled to that treatment, provinces could be required to extend medicare coverage to thousands of people with what is called Autism Spectrum Disorder (ASD).

"We believe that the failure of the government of British Columbia to fund treatment of children with ASD infringes their equality rights guaranteed under the Charter of Rights and Freedoms," said Louise Fleming, executive director of Autism Society Canada.

A California researcher has developed a new treatment for ASD but it can cost \$60,000 a year, and British Columbia refuses to pay, claiming that the therapy is unproven.

The case is being closely watched by groups who work with the handicapped. A favourable ruling might encourage similar actions from victims of other mental disorders.

The Chaoulli case is to be heard Tuesday and the Auton case on Wednesday and Thursday. Rulings are not expected until the fall.

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