IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

TEMPLE UNIVERSITY HOSPITAL, INC.,	:	March Term 2003
Plaintiff,	:	No. 1794
v.	:	
CITY OF PHILADELPHIA,	:	COMMERCE PROGRAM
Defendant.	:	
	:	Control Number 042309

ORDER

AND NOW, this 3RD day of January, 2006, upon consideration of the Partial Motion for Summary Judgment of Defendant City of Philadelphia, all responses in opposition, Memoranda, all matters of record and in accord with the contemporaneous Memorandum Opinion, it hereby is **ORDERED** that Defendant's Motion for Partial Summary Judgment is **Granted** and Counts I and II are dismissed.

BY THE COURT,

_____

C. DARNELL JONES, II, J.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

TEMPLE UNIVERSITY HOSPITAL, INC.,	:	March Term 2003
Plaintiff,	:	No. 1794
v.	:	
CITY OF PHILADELPHIA,	:	COMMERCE PROGRAM
Defendant.	:	
	:	Control Number 042309

MEMORANDUM OPINION

JONES, II, J.

In this action plaintiff Temple University Hospital ("TUH") filed this lawsuit to recover $2,476,517.26 from defendant City of Philadelphia ("City") for medical treatment provided to pre-arraignment detainees in the City's custody. Presently before the court is the City's Partial Motion for Summary Judgment to Counts I (unjust enrichment) and II (breach of an express contract) of the complaint. For the reasons discussed below, the Partial Motion for Summary Judgment is Granted.

BACKGROUND

Between April 17, 2000 and July 22, 2001, TUH rendered medical care to prisoners at TUH's facilities at Temple University and Episcopal Hospital. At the time of the treatment TUH alleges that the prisoners were arrested, were being detained and were in the custody of the City. (Exhibit "A" to Dfts. Mt. for SJ.). The medical care rendered by TUH to the prisoners was commensurate with their conditions and was necessary for their health and welfare. (Id).

TUH instituted suit against the City alleging claims for unjust enrichment (Count I), breach of an express contract (Count II) and detrimental reliance (Count III). The City has now filed a motion for summary judgment to Counts I and II of the complaint.

DISCUSSION

I. LEGAL STANDARD

The law pertaining to motions for summary judgment is well settled. Once the relevant pleadings have closed, any party may move for summary judgment. Pa. R.C.P. 1035.2. "Pennsylvania law provides that summary judgment may be granted only in those cases in which the record clearly shows that no genuine issues of material fact exist and that the moving party is entitled to judgment as a matter of law." Rausch v. Mike-Mayer, 783 A.2d 815, 821 (Pa. Super. 2001). Furthermore, "A proper grant of summary judgment depends upon an evidentiary record that either (1) shows the material facts are undisputed or (2) contains insufficient evidence of facts to make out a prima facie cause of action or defense and, therefore, there is no issue to be submitted to the jury." McCarthy v. Dan Lepore & Sons Co., Inc., 724 A.2d 938, 940 (Pa. Super. 1998). The moving party bears the burden of proving that no genuine issues of material fact exist. Rausch, 783 A.2d at 821. The trial court then must view the record in the light most favorable to the non-moving party and resolve all doubts against the moving party. *See* id. "Only when the facts are so clear that reasonable minds cannot differ, may a trial court properly enter summary judgment." Id.

II. The City is Entitled to Summary Judgment as to Count I.

Count I of the complaint purports to state a claim for unjust enrichment. TUH alleges that since the City has a federal constitutional duty to render medical care to pre-

arraignment detainees in police custody and since TUH discharged the City's duty by providing the needed medical care, the City received a benefit for which it is obligated to pay. The court does not agree.

The Due Process Clause of the United States Constitution requires the responsible government or governmental agency to provide medical care to persons, such as the pre-arraignment detainees. Revere v. Massachusetts Gen.Hosp., 463 U.S. 239, 244, 77 L. Ed. 2d 605, 103 S. C. 2979 (1983). How the City obtains such treatment is not a federal constitutional question. Id. at 463 U.S. at 245-46, 103 S. Ct. at 2984.[1]

Here, the City fulfilled its constitutional obligation by seeing that the pre arraignment detainees were taken to the hospital for treatment. As long as the City ensures that the medical care needed is in fact provided, the Constitution does not dictate how the cost of that care should be allocated as between the City and the provider of the care, in this case TUH. That is a matter of state law. Id.

The court has not found and the parties have not directed the court to any Pennsylvania authority which imposes upon the City the obligation to pay the costs of medical treatment rendered to pre-arraignment detainees.[2] On the contrary, authority exists which obligates TUH to supply a reasonable amount of medical care to indigents when medically necessary without regard to a patient's ability to pay. *See* Emergency Medical Treatment and Active Labor Act ("EMTALA"), 42 U.S.C. § 1395dd, *et. seq.*,

[1] Plaintiff relies upon DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189 (1989), Kneipp v. Tedder, 95 F.3d 1199 (3d Cir. 1996), Regalbuto v. City of Philadelphia, 937 F. Supp. 374 (E.D. Pa. 1995) and D.R. v. Middle Bucks Area Vocational Technical School, 972 F.2d 1364 (3d Cir. 1992) to impose a payment obligation upon the City. While these cases stand for the proposition that a government owes certain duties to persons with whom it has a special relationship, they do not impose any duty on the government to pay for the cost of medical care to pre trial detainees.

[2] Plaintiff's reliance on Robert Packer Hospital v. Kratochvil, 517 A.2d 566 (1986) is misplaced since the statute discussed therein only pertains to counties of the third, fourth, fifth and sixth classes which do not include Philadelphia.

Health Care Facilities Act, 35 P.S. §§ 448.101-448.904b and 28 Pa. Code § 117.1(b).

In fact TUH has a policy in place to provide medical treatment to anyone who presents to the emergency room, whether the person is a pre-arraignment detainee in police custody or indigent regardless of insurance status or the ability to pay. Exhibit "E" to Dfts. Mt. for SJ pp. 16, 17, 24, 27, 42-44. The provision of this medical care is to satisfy TUH's own statutory obligations. Thus, when TUH rendered medical care to the City's detainees, the hospital discharged its own duty to provide medical care. The fact that the City may have received an incidental benefit does not impose upon it the duty to pay for the medical care rendered by TUH.

In the absence of any statute obligating the City to pay the medical bills of the pre-arraignment detainees and TUH's obligation to provide the required care notwithstanding the detainees' ability to pay, the City is not responsible for these medical costs under a theory of unjust enrichment. Accordingly Defendant's Motion for Partial Summary Judgment is granted and Count I is dismissed.

III. The City is Entitled to Summary Judgment as to Count II.

Count II of the complaint purports to state a claim for breach of an implied in fact contract that arose after litigation between TUH and the City in 1994. Specifically, TUH maintains that an implied in fact contract exists as a result of the City's custom and practice of routinely paying seventy five (75%) percent of the charges from 1994 to 2000. In April 2000 allegedly without notice to TUH the City unilaterally terminated this practice. TUH alleges that the sudden and unannounced change in a practice and custom constitutes a breach of the implied in fact contract that was created by the parties' long standing course of dealing.

A contract implied in fact can be found by looking to the surrounding facts of the parties' dealings. Ingrassia Constr. Co. v. Walsh, 337 Pa. Super. 58, 67, 486 A.2d 478 (Pa. Super. 1984). It has the same legal effect as any other contract and differs from an express contract only in the manner of its formation. An express contract is formed by either written or verbal communication. The intent of the parties to an implied in fact contract "is inferred from their acts in light of the surrounding circumstances." Id. (*quoting* Cameron v. Eynon, 332 Pa. 529, 532, 3 A.2d 423, 424 (1939)).

While a contract implied-in-fact may arise when two parties impliedly agree to perform certain duties, such a contract, as all others, will only arise when there is an exchange of legal consideration. Chatham Communications Inc. v. General Press Corp., 463 Pa. 292, 344 A.2d 837 (1975). In situations where one party is legally bound to perform an act for another, there is no legal consideration, because there is no benefit to the recipient who is entitled to the performance or detriment to the party who was legally obligated to perform. Thus, there is no exchange of value. Id.

In this case, there was no exchange of consideration because, as discussed above, TUH was legally bound to provide emergency care services to the pre-arraignment detainees under the Emergency Medical Treatment and Active Labor Act ("EMTALA"), 42 U. S. C. § 1395dd, et. seq., Health Care Facilities Act, 35 P.S. §§ 448.101-448.940b and 28 Pa. Code § 117.1 (b). Because there was no exchange of legal consideration, the court finds there was no breach by the City. Accordingly, the City's Motion for Summary Judgment to Count II of the complaint is granted and Count II is dismissed.

CONCLUSION

For the foregoing reasons, the City's Partial Motion for Summary Judgment is **Granted** and Counts I and II of the complaint are dismissed. An order consistent with this Opinion will be issued contemporaneously with this opinion.

BY THE COURT,

_____

C. DARNELL JONES, II, J.