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Low-Income Medicaid Enrollees Sue U.S. Department of Health and Human Services for Failing to Undo Lawless, Harmful Policy Adopted by Trump Administration

Illegal Policy Requires State Medicaid Agencies to Kick Hundreds of Thousands of People Off of Medicaid During the COVID-19 Pandemic in Violation of Congress’s Clear Mandate

One plaintiff, Deborah Carr, a 63-year-old white Connecticut woman, has received full-benefit Medicaid her entire life due to long term, chronic conditions, including a degenerative neurological disease, that now requires her to receive daily assistance in her home with dressing, bathing, using the toilet, transferring from her wheelchair or out of bed, and eating. She lost access to those services as soon as a Trump Administration policy was implemented.

The Trump Administration issued an “interim final rule” in November 2020, at the time of the Presidential election. That rule then required states to trim their Medicaid rolls, in violation of the “Coronavirus Response Act,” passed by Congress in March 2020. In exchange for receiving billions of dollars of additional federal funding, states are forbidden under that law from involuntarily terminating anyone in the state from Medicaid during the federally-declared COVID-19 public health emergency. But without allowing any opportunity for prior public comment, the Trump administration rule created huge new exceptions to this Congressional requirement out of whole cloth, changing federal policy that had been in place for eight months since the Act was passed in March.

“The requirement to keep people on Medicaid during the ongoing crisis was adopted precisely because Congress recognized the severe threat, not just to individuals but to public health, from ending health insurance to vulnerable, low-income people,” said Sheldon Toubman, Litigation Attorney at Disability Rights Connecticut.

The action was filed this week in U.S. District Court in Connecticut. It asks the Court to invalidate the rule and, in the meantime, to restore benefits to persons wrongfully terminated from Medicaid during the public health emergency.

Ms. Carr soon lost access to the Medicaid coverage she’d had for years, as did hundreds of thousands of others across the country. With a total income of just $1,300 a month, she cannot afford to pay for her own home care services out-of-pocket and risks immediate
institutionalization, as do many of the older and/or disabled people who rely on Medicaid to cover vital health services that keep them safe at home. Others face losing other critical Medicaid-funded services, including services to treat COVID-19.

Another plaintiff, Brenda Moore, a Black woman 57 years of age, went several weeks without getting out of bed for hours, had several falls, and lived on only cold food when her services were initially terminated. While temporarily reinstated on benefits, she fears she will be thrown into a nursing home when her aide services permanently end on August 31st because of the Trump rule.

“Overwhelmingly, people want to live in their communities. This is especially true during a pandemic. Any loss of Medicaid benefits disproportionately impacts low-income older adults of color, who are already most at risk of institutionalization and illness due to structural health inequities,” said Carol Wong, Associate Litigation Director, Justice in Aging.

Despite its stated commitment to health equity, and the ongoing public health emergency, the U.S. Department of Health and Human Services under the Biden Administration has failed to complete the unfinished business of rescinding the prior administration’s lawless rule. Instead, it prevents older adults, people with disabilities, young mothers, and others from getting the health care they need.

“By stripping Medicaid recipients of benefits they were receiving when the Act was passed, the agency’s interim final rule is in direct conflict with the law, and threatens the health of hundreds of thousands of persons,” said Harvey L. Reiter, a partner with the Washington DC office of Stinson LLP.

Miriam Heard, Senior Attorney at the National Health Law Program noted, “Congress enacted a statute that is clear on its face—as worded, the Medicaid Act does not intend for low-income people to be stripped of Medicaid coverage during the COVID pandemic. Of course, that makes sense, given the harsh realities of this public health emergency.”

Plaintiffs are represented by Disability Rights Connecticut, Justice in Aging, The National Health Law Program (NHeLP), and the law firm Stinson LLP.

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Disability Rights Connecticut, an independent statewide non-profit organization, advocates for the human, civil, and legal rights of people with disabilities in Connecticut. DRCT’s mission is to advocate, educate, investigate and pursue legal, administrative, and other appropriate remedies to advance and protect the civil rights of individuals with disabilities to participate equally and fully in all facets of community life in Connecticut. This includes assisting individuals facing issues such as abuse, neglect, discrimination, access to assistive technology, community integration, and voting. DRCT is the Protection & Advocacy System for Connecticut.

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. Since 1972 we’ve focused our efforts primarily on fighting for people who have been marginalized and excluded from justice, such as women, people of color, LGBTQ individuals, and people with limited English proficiency.

National Health Law Program is fighting for health fights for all. Our attorneys are litigating in state and federal courts and policy advocates are fighting to advance access to quality health care for low-income and underserved individuals. We defend the nation’s health care safety net for those most in need and those with the fewest resources. For 50 years, the National Health Law Program has been fighting to protect health rights of low-income individuals, families and underserved communities. Since 1969, we have been on the front lines educating, advocating, and litigating to ensure that all people living in the United States have access to quality health care regardless of their race, gender, sexual orientation, disability, or income.

Stinson views the practice of law as a privilege. With that privilege comes the responsibility to give voice to those who would not otherwise have access to the law or the ability to champion the cause of justice. At Stinson, our attorneys combine industry knowledge and business acumen to deliver practical legal guidance to clients ranging from individuals to privately-held enterprises to international corporations. The firm is committed to using law as a vehicle for change, as staunch supporters of legal advocacy, providing direct legal representation to disadvantaged individuals through all of our offices’ pro bono efforts.