

***Bell v. Leavitt* Plaintiffs Move to Dismiss Their Case Voluntarily**

Because a national class action case can no longer accommodate all state variations or adequately tailor proof or relief for each variation, plaintiffs in *Bell v. Leavitt*, a federal class action challenging citizenship documentation requirements for Medicaid, moved last March to dismiss the case voluntarily.

The nationwide class action lawsuit filed on June 28, 2006, in federal district court in Chicago against U.S. Department of Health and Human Services (HHS) Secretary Mike Leavitt challenged the legality of provisions in the 2005 Deficit Reduction Act and the HHS implementing directions requiring Medicaid applicants and recipients who claim to be U.S. citizens to prove their citizenship with passports, birth certificates, and other documents. The new requirement went into effect on July 1, 2006.

Immediately after the case was filed, the Bush administration abandoned one of its most harmful interpretations of the law. On July 6 Secretary Leavitt exempted Supplemental Security Income and Medicare beneficiaries from the documentation requirement—a change that exempted eight million disabled and elderly persons. The administration announced this change the night before the case was to go before the judge, thereby avoiding the harm that most of the named plaintiffs faced.

A second win occurred on December 9, when Congress corrected Secretary Leavitt's misinterpretation of the 2005 Deficit Reduction Act and expressed its intent that 500,000 foster children and children receiving adoption assistance be exempt from the citizenship documentation requirement.

Because of these victories, plaintiffs and their legal advisors concluded that the potential for further progress in a nationwide case was limited. The documentation rules are being implemented in different ways in different states, with varying timetables and threats to Medicaid coverage. Plaintiffs decided to dismiss the case voluntarily to clear the way for activity on the state level, including possible litigation.

John Bouman, president of the Sargent Shriver National Center on Poverty Law and cocounsel on the case, said: "The unnecessary and burdensome citizenship documentation rules are still threatening the health care of tens of thousands of Americans that no one doubts are U.S. citizens. The documentation rules are also increasing the administrative

and staffing demands on state governments for no good reason. Some states are making the situation worse; others are struggling to protect their citizens' health care."

Bouman continued: "State governments are extremely worried that the federal government may retroactively deny them reimbursement for Medicaid payments for beneficiaries whose citizenship documentation HHS rejects. Congress must fix this mess and return health care to all who are eligible for it."

"Meanwhile," Bouman vowed, "we will work with leaders from several states around the country to ensure that implementation focuses on providing health coverage to eligible people and, where necessary, challenge the documentation rule and the implementing procedures in court, against both state and federal officials."

To that end, counsel from *Bell* recently convened a summit of state-based advocates from around the nation to discuss problems arising from the Medicaid citizenship documentation requirement as it is implemented in various states. Advocates from seven states attended the summit in Chicago on April 23–24. Summit attendees discussed how litigation and other forms of advocacy might be used within their states to spare even more Medicaid recipients and applicants from the harmful effects of the citizenship documentation requirement.

Other cocounsel on the *Bell* case are Margaret Stapleton and Liz Mazur of the Shriver Center; Stephanie Altman and Thomas Yates of Health and Disability Advocates; Sarah Somers and Jane Perkins of the National Health Law Program; Gene Coffey of the National Senior Citizens Law Center; and Mary Anderson and David Morrison of Goldberg Kohn.

Participation in media relations and coordination of the case with Washington, D.C., advocacy also involved the Center on Budget and Policy Priorities and Families USA.

Case documents in *Bell v. Leavitt*, Clearinghouse No. 56,034, are available in the Shriver Center's Poverty Law Library. Cocounsel Stapleton wrote a case note, *Medicaid Citizenship Documentation Requirements Do Not Apply to Foster Children and Children Receiving Adoption Assistance, Congress Confirms—But Application to Other Medicaid Applicants and Recipients Not Yet Halted*, 40 CLEARINGHOUSE REVIEW 558 (January–February 2007).