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**MEDIA ADVISORY**  
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**Contact: John Bouman**  
**312.368.2671**  
**Rikeesha Cannon**  
**312.368.2677**

## **Congress Confirms Plaintiffs' Interpretation of the Medicaid Citizenship Documentation Statute**

(Chicago)—Congress undid the U.S. Department of Health and Human Services' misreading of an early 2006 federal law change in Medicaid citizenship documentation requirements for foster children and children receiving adoption assistance by passing H.R. 6111 on December 9. Congress's action confirms that it always intended to exempt these children from the citizenship documentation requirements included in the Deficit Reduction Act of 2005 and that the plaintiffs in *Bell v. Leavitt*, a nationwide class action challenging the agency's directions to the state Medicaid programs that such children must submit specified documents establishing citizenship, were right about the law.

Section 405 of H.R. 6111 makes several "technical corrections" on the Deficit Reduction Act of 2005, which Congress passed early in 2006. Those corrections stipulate that Congress intended to exempt certain groups of citizens, including foster children and children receiving adoption assistance, from the new citizenship documentation requirements. In response to the *Bell v. Leavitt* lawsuit, filed on June 28, 2006, Health and Human Services Secretary Michael Leavitt had already changed his position and exempted several other groups of citizens, such as people receiving Supplemental Security Income benefits, from the new documentation requirements. He had, however, refused to read the Deficit Reduction Act to exclude foster and adoption assistance children. The *Bell* plaintiffs had sought from the federal court in Chicago a preliminary injunction directing the secretary to exempt them. In a recommended decision issued on December 8, U.S. Magistrate Judge Michael Mason agreed that the agency was misreading the law but declined to issue an injunction because of insufficient proof that children were being harmed at this time. Attorneys for the *Bell* plaintiffs and the agency are discussing how the agency can best and most quickly advise the states that they must exempt foster and adoption assistance children from the citizenship documentation requirements and that the states are authorized to set their own procedures for verifying the citizenship status of foster children. When the children's legal claim is resolved favorably, the *Bell* lawsuit will continue on the remaining issues, including that the new citizenship documentation requirements do not apply to Medicaid recipients and that the agency's narrow list of acceptable documents is illegal.

John Bouman, one of the attorneys for the plaintiffs, said: "We are very pleased that Congress has now affirmed what we said all along—the citizenship rule does not apply to foster and adopted children. A half million very vulnerable children are now spared from the government's unnecessary threat to their health care. We still believe that the citizenship documentation rule also unconstitutionally threatens the health care of every Medicaid recipient. That issue remains before Judge Guzman, and we are awaiting his ruling on whether the case can proceed."