

Poverty Action Report



**SHRIVER
CENTER**

Sargent Shriver National Center on Poverty Law

A Publication of the Sargent Shriver National Center on Poverty Law
June 2006 www.povertylaw.org Vol. 11 Issue 6

INSIDE THIS ISSUE

Rebuilding <i>America's</i> Lower Ninth.....	4
U.S. District Court and Federal Bar Association Honor John Bouman.....	6
Illinois Governor Signs Mortgage Rescue Fraud Act	5
Two New State Health Program Reforms: One Promising, the Other Problematic.....	6
State Expands Cancer Diagnosis and Treatment Program, Drops Catch-22.....	7
Employers Connecting Employees to Work Support Programs: New Tactic in Overall Strategy to Address Underenrollment.....	8
\$5.2 Million Approved for Energy Assistance to Low-Income Illinois Families.....	8
Illinois Governor Plans to Fund Education with Lottery Proceeds.....	9
An Easier Way to Save: the IRS Implements "Split Refund".....	10



Abusing Citizens And Wasting Money: Are You Ready For This?

Feds Issue Guidance on the Citizenship Documentation Requirement for Medicaid

By John Bouman

The Centers for Medicare and Medicaid Services, or CMS, the federal agency in charge of the Medicaid program, last week issued guidance to all state Medicaid directors on how they are to administer the new requirement that all Medicaid applicants and recipients who are U.S. citizens must document their U.S. citizenship. The new requirement was enacted last February as part of the Deficit Reduction Act of 2005, the comprehensive bill that contained the federal budget for the 2006 federal fiscal year (which began on October 1, 2005). The CMS guidance clarifies and in many ways softens the potential harmful impact of the law, but the new law nevertheless persecutes citizens and wastes tax dollars.

No change for noncitizens

This is about citizens. The Medicaid eligibility and documentation requirements for noncitizens have not changed at all under the new law. "Qualifying aliens" are still eligible for Medicaid and have the same documentation requirements to prove their status as before.

The unfounded fear that unauthorized aliens might be impersonating citizens in order to obtain Medicaid prompted the new law. However, the Office of the Inspector General with oversight of Medicaid investigated exactly this issue less than a year ago and concluded that this is not a significant problem in the

Medicaid program.[link to report]. Members of Congress led by Reps. Nathan Deal (R-GA) and Charlie Norwood (R-GA) ignored this evidence and pushed for inclusion of the new provision in the budget law. The rest of the congressional majority went along with it on an almost entirely party-line vote.

The old law on proof of citizenship

The law prior to the enactment of the new law provided that a person must be a citizen or qualifying alien to be eligible for Medicaid. To prove citizenship, the old law allowed applicants to state, under penalty of perjury, that they are citizens. It did not require documentation of citizenship, although it allowed and expected the states to demand documentation in any case where there was some question that the assertion of citizenship might not be correct. While there are numerous ways to become a citizen, almost all citizens gained that status simply by being born in the United States. Thus the assertion of citizenship for Medicaid eligibility most often amounted to an assertion of birth in the United States.

In most cases, simply judging from personal characteristics and statistical likelihood, there is no reasonable doubt about most peoples' assertion of citizenship, and to require everyone, and require the state Medicaid agencies, to spend time and money tracking down the documentation of native birth makes little sense. To limit the requests for documentation to cases in which there is some legitimate reason to think the assertion of native birth is questionable makes the most sense and is the best use of public dollars. This is exactly the balance that the old law struck, and the Office of the Inspector General's conclusions proved it to be an effective approach.

The new law and the CMS guidance

The new law presumes that Medicaid applicants and recipients who swear under oath to a native birth cannot be believed. Instead the law demands documentary proof of citizenship in each case. It demands this of new applicants for Medicaid effective July 1, 2006. And, in spite of the fact that they have already been found to be citizens, the new law reopens

the issue and demands documentary proof of current Medicaid recipients in their next annual eligibility review after July 1.

The new law demands very specific types of proof to establish both the citizenship and the identity of the person. A passport is the prime example of a document that establishes both citizenship and identity. A birth certificate is the prime example of a document that establishes citizenship but not identity. And an official picture ID (such as a driver's license) is the prime example of a document that establishes identity. So, according to the statute, in most cases, to get or retain Medicaid a person has to produce a passport or, if there's no passport, both a birth certificate and a picture ID. The statute lists a few other examples of documents that will suffice, and it allows CMS to publish a regulation further fleshing out the requirements.

The CMS guidance published on June 9, 2006, fleshes out the requirements, and it will be turned into a formal emergency and proposed regulation (published in the *Federal Register*) before the end of the month. The guidance will help many people who cannot comply with the statute's rigid documentary specifications to prove their citizenship and identity with other documents. And, as a last resort, it allows people who cannot produce any of the allowed documents to prove their citizenship and identity by affidavits from people who know where they were born and who they are. The guidance allows current recipients of Medicaid as much time as they need to produce the documentation, so long as they can demonstrate ongoing good-faith efforts to do so. And it instructs states to help recipients and applicants who are having trouble producing the documentation. In a general sense, the guidance should help the states administer the new requirement in a way that theoretically should not deprive many people of Medicaid.

The new law still needlessly persecutes citizens and wastes tax dollars

The most immediate danger to people who need Medicaid is if they live in a state that decides not to administer the documentation requirement in the most helpful way but instead either bungles it or treats it as a

way to save money by eliminating eligible people from the program. Such states are definitely out there. Even well-intentioned states have plenty of motivation under the statute and the guidance to deny or terminate Medicaid rather than risk loss of federal matching funds. The guidance makes clear that states will be audited on the documentation requirement and that states are expected to give it teeth. States have plenty of room under the guidance to avoid depriving most citizens of Medicaid coverage, but some states may not have the necessary willpower and will be tempted to deprive citizens of coverage rather than “risk” loss of any federal matching funds.

Even in the most mission-oriented states (the mission being to provide health care to those who need it and are eligible), the entire population receiving or applying for Medicaid is about to be put through a difficult, frightening, and potentially disastrous process. The process is both unnecessary and insulting because it starts with the presumption that the Medicaid recipients and applicants have lied or surely will lie about their citizenship. They must respond to notices, gather documents, ask for help, try to obtain affidavits if they do not have documents, convince the state authorities that they are making their best efforts, navigate difficult bureaucratic processes. They will have to pay for documents. Anyone with experience of caseloadwide “dragnets” like this knows that there are always a significant number of casualties, as high as 10 percent to 20 percent, attributable simply to mistakes, administrative rigmarole, and falling through the cracks. This will be more pronounced among the Medicaid population: elderly, people with disabilities, children, disaster victims, and residents of institutional settings.

The Shriver Center is examining litigation options regarding the new citizenship documentation requirement and welcomes those who know of people who may be injured. For more information, contact:

John Bouman
johnbouman@povertylaw.org, or
 Margaret Stapleton
mstapleton@povertylaw.org.

Even those who will ultimately succeed in documenting their citizenship are facing irreparable losses: being put through this process, having to expend the time and resources, undergoing an emotion-filled exposure to the loss of their all-important health coverage. Recipients who have already proven their citizenship under the prior law must undergo the sudden “reversal” of that determination of their citizenship for no reason other than that politicians in far-off Washington, D.C., had a phobia and a political agenda.

And what about the states? Virtually all of them face budget crises and very important demands on their resources, demands such as schools, public safety, and, yes, health care. Now, courtesy of Representatives Deal and Norwood and their companions who passed this law, the states face millions and millions of unnecessary administrative tasks. Even the most routine cases will demand fresh work involving the acceptance, processing, and care of documents. More complex cases will involve more time and personnel and cost. States are also exposed to liability for the questionable constitutionality of the new requirement, a liability that Congress forced on them.

The majority in Congress thought, perhaps, that this was just an incident in this year’s larger debate over immigration and a way to score a debating point. Not so. There are large costs here to citizens and the states, and there will be scant impact on any aspect of the nation’s immigration situation. There should be a line item in the ledger of wasted taxpayer dollars called “Deal/Norwood costs” to record the fiscal drain. How to keep the tally of the huge human costs visited on American citizens under this law is less clear. ■

Rebuilding America's Lower Ninth

By Rita McLennon

When Katrina devastated the Gulf States last year, the hurricane alerted the nation to a state without borders, a state whose geography extends beyond the Lower Ninth Ward of New Orleans—it is the State of Poverty, America's undeclared disaster area. As part of our State of Poverty initiative, the Sargent Shriver National Center on Poverty Law is coordinating media outreach events between August 21 and September 1, 2006, in a campaign called “Rebuilding America's Lower Ninth.”

This year, during the first anniversary of Hurricane Katrina, the eyes of the world will again face New Orleans' Lower Ninth Ward. What has happened over the last year? In a moment of promise, when President Bush visited New Orleans last September, he talked about the “deep, persistent poverty” seen on television after Hurricane Katrina. “That poverty,” he said, “has roots in a history of racial

discrimination, which cut off generations from the opportunities of America. We have a duty to confront this poverty with bold action.” Almost one year later, no commission has been appointed, and there are no signs of a program, plan, or proposal to fulfill this duty.

While many debate the need for a stronger federal response, 37 million people are sinking in poverty. The time for bold action has come. We believe that the following principles are the core of what the federal government should do to address poverty and change the system for the better.

- The federal government must level the playing field by enforcing civil rights laws.
- The federal government must lead when states fail or lack the resources to meet socioeconomic needs.

Continued next page

What the Federal Government Must Do to End Poverty May-June 2006 Special Issue of CLEARINGHOUSE REVIEW

This special issue of [Clearinghouse Review](#) is a blueprint for an effective federal strategy to end poverty in America. Articles by prominent policy experts and specialists in poverty law analyze the factors keeping persons in poverty and offer solutions for the federal government to apply to eliminate poverty.

“This special issue offers several important ideas on how we can restore the ideals of the American Dream by lifting more families out of poverty.”—Sen. John Edwards

Get your copy today!

Single copies of the May-June 2006 issue of CLEARINGHOUSE REVIEW are available to nonsubscribers at \$30 per copy for nonprofit organizations and \$60 per copy for others. A special subscription offer is extended to nonprofit entities subscribing to CLEARINGHOUSE REVIEW for the first time: Subscribe by August 31, 2006, and get a two-year subscription for the price of one—\$250. To subscribe or to obtain a copy of this special issue, please contact Nancy Carey at nancycarey@povertylaw.org.

- The federal budget should fund initiatives that can lead to better economic results for low-income people.
- The federal commitment to fighting poverty ought to counter the cycles of boom and bust;
- as the economy declines, funding for antipoverty programs should increase.
- The federal government should force states to account for how they use antipoverty funds.
- Tax policy must reflect our values and generate enough revenue to support antipoverty programs.

We cannot hope to deal adequately with a severe natural disaster without substantial federal involvement. Nor can we deal with the severe social disaster of deep, pervasive poverty without significant federal intervention.

The Shriver Center addresses the issues and factors causing poverty. Our efforts are improving the lives of low-wage workers, helping families advance toward economic security, and preserving communities of opportunity throughout our country. We are fortunate that we are not alone. As we look to constructive policies to move people from poverty to prosperity, we are asking you to lend your voice and your solutions to this season of outreach and public education. Join us in “Rebuilding America’s Lower Ninth” and take action to end poverty in every community. ■

Rita McLennon is the executive director of the Sargent Shriver National Center on Poverty Law. For more information on this campaign, please e-mail us at rebuildingamerica@povertylaw.org.

Illinois Governor Signs Mortgage Rescue Fraud Act

Gov. Rod Blagojevich of Illinois signed Senate Bill 2349, the Illinois Mortgage Rescue Fraud Act, which will regulate mortgage foreclosure rescue deals starting January 1, 2007. Rescue fraud is a type of predatory lending in which mortgage consultants strip the equity of vulnerable homeowners. The Sargent Shriver National Center on Poverty Law, Legal Assistance Foundation, Woodstock Institute, National Training and Information Center, Housing Action Illinois, Chicago CRA Coalition, and other nonprofit advocate groups have been working on this bill with Atty Gen. Lisa Madigan’s office.

The bill targets two principal types of rescue schemes. One involves “distressed property consultants” that offer phantom help to homeowners—usually a promise to “buy them time” or “save the home” by negotiating with the homeowners’ creditors. In the other type, a “distressed property purchaser” acquires the deed of the distressed property by misleading the homeowner into an unmanageable rental agreement.

The mortgage rescue bill requires that (1) distressed property consultants or purchasers provide homeowners with a written contract that lays out all the terms of the sale and makes it clear that the home is actually being sold; (2) the homeowner has the right to

Continued next page

Rebuilding America's Lower Ninth



Sargent Shriver National Center on Poverty Law

Taking action to end poverty in every community

cancel the contract for five business days after it is executed by all parties; (3) prior to sale of the property, the purchaser must make a determination that the homeowner has the ability to make rental payments and buy the house back; and (4) the purchaser must pay the homeowner at least 82 percent of the fair market value of the home if the homeowner is unable to buy back the home. ■

For additional information regarding S.B. 2349, visit the Illinois General Assembly webpage (<http://www.ilga.gov/legislation>), or contact Ian Gardiner (iangardiner@povertyllaw.org) of the Shriver Center.

U.S. District Court and Federal Bar Association Honor John Bouman

Litigation Group Wins Excellence in Pro Bono and Public Interest Service Award

The U.S. District Court and Federal Bar Association conferred their Annual Excellence in Pro Bono and Public Interest Service Award to John Bouman and his colleagues for their work in *Memisovski v. Maram and Adams*, No. 92 C 1982 (N.D. Ill. June 27, 2005). U.S. Judge Joan H. Lefkow presented the award to Bouman of the Sargent Shriver National Center on Poverty Law, Frederick B. Cohen and David J. Chizewer of Goldberg Kohn, and Stephanie Altman and Thomas Yates of Health & Disability Advocates at a ceremony on June 6.

The honor for Bouman, the Shriver Center's director of advocacy, is for his outstanding service and advocacy on behalf of low-income children in the Medicaid settlement that *Memisovski* mandated. The settlement ensures that children from low-income families in Cook County have access to regular, consistent physician care. The ruling is a landmark victory for the rights of 600,000 children in Illinois and a source of hope for others across the country.

"The Shriver Center is delighted that the litigation team is being honored with this award recognizing excellence in pro bono advocacy," said Bouman. "The case is a great example of productive teamwork among top private bar litigators and not-for-profit public interest

specialists to produce significant change, in this case a quantum improvement in health care for children in Illinois," he continued.

Another awardee, Cohen, a principal in the Litigation Group at Goldberg Kohn, served as cocounsel in the case. He is a newly elected member of the Shriver Center's board of directors.

Rita McLennon, executive director of the Shriver Center, attended the ceremony and said, "We are immensely proud of this team and its accomplishment. And we are grateful to the U.S. District Court and the Federal Bar Association for the recognition and the award." ■

Two New State Health Program Reforms: One Promising, the Other Problematic

Vermont Follows Massachusetts with Compromise Health Care Reform

After negotiating with lawmakers, Gov. James Douglas (R) signed two bills last month to extend health coverage to a significant portion of Vermont's uninsured population. Some 30,000 uninsured residents will gain coverage through a new program called Catamount Health; public programs will cover another 30,000 uninsured. With the new law, the state expects that as many as 96 percent of its residents will gain health coverage in the next five years.

Under Catamount Health, private insurers will offer state-subsidized comprehensive benefit plans with sliding-scale premiums. Subsidies will come from federal funds, a new cigarette tax, and tobacco settlement money. Companies may begin selling the plans on October 1, 2007. If the private market fails to offer plans, lawmakers have an agreement to force companies to offer Catamount plans.

Like the new law in Massachusetts, the new Vermont law creates an employer assessment. Employers will have to pay \$365 each year per full-time-equivalent

employee. Unlike Massachusetts, Vermont will not require that residents take up coverage. Vermont is just one of a number of states following Massachusetts' groundbreaking health reforms to expand coverage to the uninsured as opposed to limiting coverage and benefits.

West Virginia's "Medicaid Redesign" Could Have a Negative Impact on Low-Income Children

The federal government recently approved West Virginia's new state amendment plan under the Deficit Reduction Act. West Virginia's new plan heads in a dangerous direction that threatens coverage for kids without much benefit to the state. The new plan imposes a "personal responsibility" requirement on 160,000 people and benefit reductions for failing to comply. Low-income children stand to be the most affected by this change.

Under the state amendment plan, beneficiaries will sign a "member agreement" stating that they will comply with a set of behavioral guidelines for healthy living. Three out of four beneficiaries will be children whose parents will be expected to sign the agreement on their behalf. The agreement states that a beneficiary will engage in healthy behaviors such as seeking preventive health care, following doctors' orders, and keeping appointments. Signing this agreement places beneficiaries in the "enhanced" plan with a comprehensive set of benefits. When a beneficiary violates the member agreement, the beneficiary is placed in the "basic" plan, which offers less benefits and no mental health services or diabetes care. Most of the beneficiaries will be children who have little or no control over their health care regimen and could have their benefits reduced through no fault of their own. ■

State Expands Cancer Diagnosis and Treatment Program, Drops Catch-22

Illinois will expand its Breast and Cervical Cancer Program (BCCP) to cover the costs of screening and treatment for all uninsured lower-income women starting January 2007. The new state budget, which the General Assembly passed and Gov. Rod R. Blagojevich

signed into law, includes, at the governor's request, \$1.6 million to cover the expansion. The state's 2007 budget allows coverage for uninsured women with incomes up to 250 percent of the federal poverty level—\$50,000 for a family of four. Under prior budgets, the income ceiling was 200 percent of the federal poverty level.

The budget action will eliminate a harsh catch-22 in the current program. In order to control costs, the program now pays for treatment only for women whose diseases are first diagnosed by program physicians. Women diagnosed by BCCP providers are eligible for free treatment; those diagnosed by others—for example, their own doctor or a community health center—are not. This leaves many uninsured women to deal on their own with the double trauma of a serious cancer diagnosis and the need to scramble to find ways to pay for cancer treatment. Women go into deep debt, go bankrupt, and delay treatment while they search for doctors or hospitals that treat uninsured people. Starting January 1, 2008, eligible women will be covered for treatment regardless of where they are diagnosed.

Generally, uninsured women between the ages of 40 and 64 are eligible for mammograms and breast exams and between the ages of 35 and 64 for pelvic exams and Pap tests. Younger women who have symptoms of breast or cervical cancer are considered for eligibility in the program on a case-by-case basis. Women receiving cancer treatment in the program are eligible for all Medicaid-covered health services while they are in cancer treatment.

Women can find out how to get free breast and cervical cancer screenings and treatment by calling the Illinois Department of Public Health's Women's Health Line at

888.522.1282

**or by visiting the agency website:
www.idph.state.il.us**

\$5.2 Million Approved for Energy Assistance to Low-Income Illinois Families

With higher home energy costs stretching Illinois household budgets, the Illinois Energy Assistance Act now allows the Supplemental Low-Income Energy Assistance Fund to prevent utility shutoffs and provide a onetime benefit of up to \$100 to households. Utility companies that suspend disconnection during the winter are now disconnecting services for some households. The Illinois General Assembly and Gov. Rod R. Blagojevich approved an additional \$5.2 million in funding. State Rep. Marlow Colvin (D-Chicago) and State Sen. Kwame Raoul (D-Chicago) led efforts in the General Assembly to amend the Illinois Energy Assistance Act to provide the supplemental funding.

Illinois automatically applies supplemental payments from the Low-Income Home Energy Assistance Program (LIHEAP) (funded by the U.S. Department of Health and Human Services and the State of Illinois) to utility accounts in the amount of \$50, \$75, or \$100, depending on the household's income and size. Low-income households that are facing imminent disconnection and have not already received a benefit to have their service restored may apply for extra help at LIHEAP offices throughout the state. ■

For more information, go to <http://neaap.ncat.org/programs/index.htm> and select a state to find a listing of its low-income energy programs, including website links, e-mail addresses, and area-code-800 phone numbers.

Comments, letters and general feedback about *Poverty Action Report* should be sent to the editor, Rikeesha Cannon at 312.368.2677 or rikeeshacannon@povertylaw.org

Poverty Action Report
Sargent Shriver National Center on Poverty Law
50 E. Washington St. Suite 500, Chicago, IL 60602

Employers Connecting Employees to Work Support Programs

New Tactic in Overall Strategy to Address Underenrollment

Work supports such as the earned income tax credit (EITC), Medicaid, food stamps, and child care assistance can both raise disposable family income and improve employment retention. Yet many low-wage workers who are potentially eligible for these government programs are not enrolled either nationally or in Illinois. A policy paper last month from the Center for Law and Social Policy (CLASP) reviews a new approach to increasing enrollment. Drawing on observations from CLASP's visits to six programs, "Getting Connected: Employer Engagement in Work Supports" discusses efforts to connect employees with work supports in the workplace. Connecting employees with benefits in the workplace capitalizes on the opportunity to reach low-wage workers through employers.

CLASP observed six sites engaged in connecting low-wage workers to work supports: the Greater Miami Prosperity Campaign, operated by the Human Services Coalition of Miami, Florida; the EarnBenefits program, run by Seedco, of New York, New York; the Family Economic Progress program, run by the United Way of San Antonio, Texas; a partnership between the United Way and the Colorado Black Chamber of Commerce in Denver, Colorado; and two employers, Detroit Chassis, in Detroit, Michigan, and Cascade Engineering, in Grand Rapids, Michigan. The first four programs reach out to employers to educate them about work supports; or they ask employers to give information about work supports to their employees or host mobile outreach workers that can assist employees with benefit applications; or they do both. The two employers, Detroit Chassis and Cascade Engineering, sponsor on-site workers—a social worker and a case manager from the Michigan human services agency, respectively—to assist families in accessing benefits.

CLASP drew six lessons. First, employers have limited knowledge about work support programs and worker eligibility. Employers often did not know about work

supports that were available to their low-wage workers, and many were unaware of how many of their workers were in low-income families and needed benefits. Second, many employers are willing to play a role in connecting employees with work supports, but only a limited one. Employers preferred disseminating information about resources that employees could use to access the benefits of hosting an agency worker on site. Some businesses, however, were open to mobile clinics on site in connection with tax assistance during tax-filing season and to on-site financial education that included information about accessing benefits. Third, employers are most receptive to EITC outreach; employer initiatives often begin with the EITC. Fourth, most programs to engage employers in increasing enrollment in work supports are local or regional and benefit from relationships between employers and trusted nongovernmental organizations. Fifth, a strong and trusted champion from the coordinating organization is critical for an outreach effort to employers; the best champions are close to the business community. And sixth, some employers believe that income affects employment retention and productivity. More information on these lessons and recommendations for expanding efforts to connect employees with benefits in the workplace are available in the CLASP paper. See <http://www.clasp.org/publications/employerworksupports.pdf>.

CLASP cautions that efforts to connect employees with benefits in the workplace, while promising, may not be a viable strategy for substantially increasing enrollment in work supports and so should be only one part of a larger effort. Involving a broad range of employers may simply be too difficult. Employers may be unwilling to participate in connecting employees with benefits because of general caution toward government benefits or because of the stigma that might result from perceptions that they do not provide wages or benefits sufficient for their employees to cover their costs of living. ■

“Getting Connected: Employer Engagement in Work Supports” is the first policy paper to be released in CLASP’s Workforce Development Series. For more information, contact John Bouman at johnbouman@povertylaw.org.

Illinois Governor Plans to Fund Education with Lottery Proceeds

Gov. Rod R. Blagojevich recently proposed to increase state funding for education over the next four years through the sale or long-term lease of the state lottery.

The lottery currently produces an annual revenue flow of \$650 million for education. Governor Blagojevich’s proposal assumes that the sale or long-term lease of the lottery would raise \$10 billion; \$6 billion above current state funding levels would be spent on education over the next four years in increasing increments of \$1 billion in year 1, \$1.35 billion in year 2, \$1.65 billion in year 3, and \$2 billion in year 4. The balance of the proceeds would be invested to ensure that the annual revenue flow for education would return to its current level of \$650 million from year 5 until 2025. Revenue from the lottery would cease after 2025.

Governor Blagojevich would use the substantially increased revenue available over the next four years to increase the state’s per-pupil funding (the foundation level), increase special education services, fund school construction, expand preschool to all 3- and 4-year-olds, expand programs for underperforming students, replace textbooks, and pay for other reforms. The governor’s proposal also calls for saving money through school district consolidation and increasing merit pay programs for teachers.

Many questions have surfaced about the governor’s plan. The biggest questions are how improvements will be maintained after the next four years are over, and revenue to education from the lottery falls back from \$2 billion above the current level in year 4 to the current level of \$650 million in year 5—what some are calling the first, \$2 billion cliff. There is the same question as to the second cliff, in 2025, when annual revenue to education from the lottery falls from the current level of \$650 million to zero.

Another pressing question is whether privatization of the state lottery will lead to more aggressive marketing to low-income population groups or an expansion of

gaming locations (such as the keno parlors that the governor had proposed) or both.

Many see the governor's proposal to finance temporary spending increases on education by selling off the future revenue stream from the lottery as a continuation of unsound fiscal practices that are mortgaging the state's future. Even though Illinois's unfunded public employee pension liability of \$41 billion is the largest in the nation, the Blagojevich administration balanced the state budget for the past two years by deferring payment of more than \$1 billion in scheduled pension contributions each year. The schedule of required state pension contributions "ramps up" significantly over time; that is, it includes steady annual increases. The state will owe over \$2 billion in fiscal year 2008, and more than \$6 billion in fiscal year 2025, when the \$650 million in annual revenues from the state lottery would end under the governor's proposal.

Apart from these questions about the long-term financial impact and lack of sustainability of the governor's proposal, there are concerns that the governor's proposal does not address the growing structural deficit in the state's revenue system. The chronic failure of annual increases in state revenues to keep pace with inflation leads to real cuts in the funding of human service programs for the state's most vulnerable populations. Nor does the proposal do anything to reduce the inordinate tax burden that Illinois's highly regressive state tax system places on the state's poorest taxpayers; if anything, by increasing reliance on the lottery as a revenue source, the governor's proposal makes matters worse.

An alternative to the governor's proposal would accomplish the governor's goal of substantial increases in education funding and eliminate the structural deficit, make the state's revenue system more equitable, and avoid further mortgaging the state's financial future. The alternative would involve increasing the state income tax rate from 3 percent to 5 percent and broadening the base of the state sales tax to cover some services, while lowering local property taxes and including a tax credit to offset the impact on lower-income taxpayers. ■

See <http://www.aplusillinois.org/> for more details. For more information, contact Dan Lesser, Sargent Shriver National Center on Poverty Law, danlesser@povertylaw.org

An Easier Way to Save: the IRS Implements "Split Refund"

For many Americans, tax refunds are the single biggest lump sum of money they will receive all year. Next year, as millions of federal taxpayers calculate their refunds, they will have the opportunity to put some of the refund away for a rainy day. The Internal Revenue Service has new options for direct deposit of refunds. The IRS is allowing taxpayers to split their refunds into three different accounts by filling out a new form—Form 8888. Taxpayers may direct-deposit parts of their refund into retirement and emergency funds and still have money left over to pay bills.

With the savings rate of Americans at an all-time low since the Depression, as ABC News reported in January 2006, many do not have emergency funds to weather a job loss or medical expenses from sickness or injury, and so they leave themselves on the edge of financial ruin. However, policies that simplify saving money and building assets are more effective for Americans across all economic levels.

"The ability to split a refund before the check is in their hands gives many Americans an easy way to start or add to a savings or retirement account," said Dory Rand of the Sargent Shriver National Center on Poverty Law. "Assets such as savings or retirement accounts are the building blocks to financial security."

The Shriver Center, cochair of the Illinois Asset Building Group, is invested in building the stability and strength of families and communities through increased asset ownership and asset protection. Along with community groups, banks, regulators, and researchers across the country, the Shriver Center advocates expanding asset-building opportunities. ■

For more information, contact Dory Rand at doryrand@povertylaw.org or Jami Schlafer at jamischlafer@povertylaw.org.

Momentum for a Right to Counsel in Civil Case *Clearinghouse Review* Special Issue

Low-income clients' unmet legal needs in civil cases are growing. Many clients who face severe legal consequences can neither afford private lawyers nor obtain counsel from legal aid programs stretched far too thin. They lose parental rights to their children. They lose their homes. They cannot access essential health care. While defendants who face incarceration in criminal cases have a constitutional right to counsel, at public expense if necessary, parties to civil cases have no comparable right, no matter how potentially devastating the outcome.

To demolish this monumental barrier to justice, a burgeoning national coalition of poverty law advocates is developing state-level strategies to achieve a right to publicly funded counsel for low-income people in civil cases. The right is otherwise known as "civil Gideon," after *Gideon v. Wainwright*, in which the U.S. Supreme Court, in 1963, found a constitutional right to counsel for criminal defendants.

The entire July-August 2006 issue of *Clearinghouse Review: Journal of Poverty Law and Policy* will cover this topic. The special issue will have articles examining efforts in several states and Canada to recognize the right to counsel, a survey of state statutes guaranteeing counsel, and an analysis of the status of the right under federal law 25 years after the Supreme Court found no blanket right to counsel in any civil case. The special issue will also consider the right to civil counsel under international law and explore lessons from the defender side of implementing the right to counsel in criminal cases.

Michael Greco, the American Bar Association President resident who has been voicing the need for more available counsel for low-income people, will introduce the special issue. At its annual meeting in August the ABA will consider a resolution to support appointed counsel at public expense for low-income people in cases where basic human needs are at stake. ■

For information on obtaining a copy of the special issue, contact Ilze Hirsh, *Clearinghouse Review* editor, ilzebirsh@povertylaw.org.