

Poverty Action Report



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Sargent Shriver National Center on Poverty Law

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Advocates Challenge Conversion of Subsidized Housing into Dorms

Attorneys from the Sargent Shriver National Center on Poverty Law (Kate Walz and Tiffany Hardy), the Housing Preservation Project, and pro bono lawyers from Sachnoff & Weaver Ltd. are challenging in a class action lawsuit filed last month the Moody Bible Institute's unlawful conversion of project-based Section 8 housing into student dormitories. Moody Bible's action unfortunately is a national trend: universities purchase subsidized housing and attempt to use it as housing for students.

The threatened property, Morningside I, is just west of the Magnificent Mile and originally housed some 200 low-income senior and disabled residents. The suit was filed on behalf of current Morningside residents, applicants on the waiting list, and the Jane Addams Senior Caucus, a 30-year-old Chicago nonprofit organization.

Plaintiffs hope to restore Morningside as a 100 percent project-based Section 8 housing, reinstate the waiting list for eligible applicants, and provide senior and disabled residents with the same upgrades to their units as for students. The plaintiffs' motion for a preliminary injunction will be argued on October 20.

As a project-based Section 8 property, Morningside is expressly intended for low-income applicants. In project-based programs, government subsidies stay with the building when a tenant moves; this assures the long-term availability of affordable housing in a particular area. The U.S. Department of Housing and Urban Development allocated money in the 1970s to the Illinois Housing Development Authority to create and administer Morningside, along with several other developments throughout Illinois. Moody Bible Institute purchased Morningside in 1993.

Since the late 1990s, Moody Bible has violated these obligations by gradually converting the property into a student dormitory. Approximately 160 students reside in Morningside; they enjoy Internet access in well-maintained rooms. Moody Bible is combining units to make larger

apartments, hotel rooms, and corporate housing available to alumni, donors, and students' parents. One such corporate apartment has been reserved for Jerry Jenkins, the noted evangelical Christian novelist who helped Moody Bible pay off the mortgage on Morningside. The property has even been renamed "Jenkins Hall" in his honor.

Meanwhile, the disabled and elderly residents have been denied similar upgrades in their rooms and even parking spaces in the building's lot, forcing them to walk across four-lane streets to reach their homes. Eligible applicants are no longer taken off the waiting list and instead are told that the building is no longer intended for disabled and elderly residents. Over 300 people on the waiting list have been unable to secure affordable housing at Morningside. The residents' plight and the litigation have already been featured in the *Chicago Tribune* and on *ABC/Channel 7 News*.

The situation at Morningside helps illuminate Illinois's affordable-housing crisis, which is especially prejudicial to elderly and disabled residents. Chicago's Department of Housing recognized seniors' special needs in a new five-year senior housing plan, which placed the highest priority on supporting low-income, independent-living apartments for seniors. Similarly Illinois's comprehensive housing plan from 2006 focuses on the housing needs of "underserved populations" meriting special attention—low-income seniors and people with disabilities.

Congress recognized this conversion trend in the last year by passing a law aimed at prohibiting most students from residing in subsidized housing. Sen. Tom Harkin (D-IA) submitted an amendment to the Housing and Urban Development 2005 appropriation bill; the law ended all assistance under Section 8 of the United States Housing Act of 1937 to certain students at institutions of higher education.

For more information, contact Kate Walz at 312.263.3830 ext. 232 or katewalz@povertylaw.org.

Comparisons of State Child Care Assistance Programs: How Does Illinois Measure Up?

All states utilize federal funds available through the Child Care and Development and the Temporary Assistance for Needy Families block grants to help fund their child care programs. Slightly more than half of the funding for the

Illinois consolidated child care assistance program (CCAP) is federal funds.

Illinois spends over \$700 million annually in child care assistance so that low-income parents can work, go to school, or participate in other work-related activities. To qualify for assistance, a family's income must fall below 50 percent of the state median income (\$30,396 SMI for a family of three). Families pay a portion of the cost of child care, with the amount being determined by a sliding fee scale. Child care providers are reimbursed according to a rate schedule. Parents choose their provider—a child care center, licensed home, or family, friend or neighbor exempt from child care licensing rules—and the reimbursement level varies with the type of care. Since Illinois's CCAP began in 1997, all income-eligible families participating in an allowable activity have been served, with no waiting list for services and no time limit on how long services are available.

The National Women's Law Center (NWLC) recently released its annual comparison of state CCAPs. (See Karen Schulman & Helen Blank, *State Child Care Assistance Policies 2006: Gaps Remain, with New Challenges Ahead*, NATIONAL WOMEN'S LAW CENTER ISSUE BRIEF, Sept. 2006, www.nwlc.org/pdf/StateChildCareAssistancePoliciesReport2006.pdf.) NWLC's state-by-state comparison is the only annual study of its kind and enables states to take stock of how they are doing, compared to one another. NWLC's report covers the three main aspects of state CCAPs (access, affordability, and quality) by using four points of comparison (income eligibility levels, waiting lists, parent copayments, and provider reimbursement rates). How does Illinois compare with the other states?

Access

NWLC uses two points of comparison to measure access to a state's CCAP. The first is the state's income guideline—the income level at which families lose eligibility for the CCAP. Illinois law requires that income eligibility for the CCAP be at least 50 percent of state median income. It is currently at approximately 51 percent of state median income since the state median income fell slightly this year and the child care guidelines remained the same.

Nationally the average or median income limit is about 55 percent SMI. So Illinois is about 5 percent below the national average.

NWLC's other measure of access is whether a state has a waiting list for child care or has frozen intake (i.e., the state

turns away new cases and does not keep a waiting list). Only 18 states had waiting lists or frozen intake in 2006, and there is a slight trend away from having waiting lists. The other 32 states had no waiting lists for services. Illinois has never had a waiting list for child care since the consolidated program began in 1997.

Affordability

NWLC measures affordability by comparing family copayments for a family of three with one child in care at the income of 100 percent and 150 percent of the federal poverty level. In Illinois these families have monthly copayments of \$65 and \$160. Illinois's copayments are right in the middle compared to other states.

Quality

NWLC measures quality by comparing provider reimbursement rates. Federal guidelines recommend that CCAP provider reimbursement rates be set at the 75th percentile of the market according to the results of a state market rate survey. This means that states should pay enough to access three out of every four slots in the market. This is necessary, according to the federal government, to ensure that the low-income children who qualify for the CCAP have access to the same quality of care as higher-income children.

Illinois has long had some of the lowest child care reimbursement rates in the country. Until recently the rates had not changed since 2000. In April 2006 rate increases went into effect for all providers. Rates for licensed and license-exempt home providers increased as the result of a collective bargaining agreement between the State of Illinois and the Service Employees International Union Local 880 (SEIU). Illinois separately agreed to raise rates for child care centers. Under the terms of the SEIU contract, home providers' rates will increase three more times between now and July 1, 2008.

Even with the substantial rate increases that went into effect on April 1, 2006, Illinois's provider reimbursement rates remain among the worst in the country. NWLC measures the percentage difference between the reimbursement rates for preschoolers and infants in centers and the 75th percentile. Using Illinois's preincrease rates, NWLC found that Illinois's preschool rate for centers (\$527 per month) was 33 percent below the 75th percentile (\$788) and Illinois's infant rate for centers was 25 percent below the 75th percentile. Even with its new reimbursement rates, Illinois's center rate is still 30 percent below the 75th percentile for preschoolers and 20 percent

below the 75th percentile for infants—one of the worst ratios in the nation.

Conclusion

NWLC's state-by-state comparison confirms that the weakest point of Illinois's CCAP is its low provider reimbursement rates. Illinois is addressing this through the April 1, 2006, rate increase, the additional forthcoming rate increases for home providers, and future comparable increases for centers. Illinois's income eligibility guidelines are somewhat lower than the average state's and its copayments, at least for families at 100 percent and 150 percent of the federal poverty level, are pretty average. Illinois is among the majority of states that do not impose waiting lists or frozen intake on their CCAPs.

For more information, please contact Dan Lesser at danlesser@povertylaw.org.

2006 Financial Links Catalyst Awards Luncheon

The Financial Links Annual Catalyst Awards Luncheon will be held at Smith Barney (10 S. Wacker Drive, Suite 2800, Chicago) on November 8 from 12:00 noon to 1:30 p.m. Lunch will be served. Please bring a photo identification. The Financial Education Program instructors' meeting follows at 1:30 p.m. Instructors are required to attend.

Contact Patrick Hain at 312.263.3830 or patrickhain@povertylaw.org to register or for more information.

500,000 Foster Children's Medicaid Likely To Be Secured Nationwide

Federal Judge Ronald Guzman has issued an interim ruling in regards to Plaintiffs' motion for a preliminary injunction in the nationwide class action lawsuit, *Bell v. Leavitt*, filed June 28th against Mike Leavitt, Secretary of the U.S. Department of Health and Human Services. In his opinion, Guzman ruled that he would likely order an injunction exempting 500,000 kids in foster care from a

new Medicaid regulation requiring recipients to show proof of citizenship.

“We are delighted to report further progress on winning proper implementation of the documentation requirement. 500,000 foster kids’ are likely to win an injunction which would exempt them from this arbitrary and superfluous rule altogether,” said John Bouman, attorney for the plaintiffs.

As to everyone else needing Medicaid, in his Friday decision, Judge Guzman did not rule upon the fairness or propriety of the documentation requirement itself. Instead, he ruled that the plaintiffs did not have standing, at this time, to challenge the Health and Human Services’ regulation. He ruled that the harm to the plaintiffs flows from the statute, not the regulation, so that plaintiffs’ challenge to the regulation is unavailing. Judge Guzman did not take account of the fact that plaintiffs do challenge the statute, and plaintiffs will ask him to reconsider.

“These citizenship documentation rules, which refuse to recognize numerous kinds of legitimate proofs of citizenship, will deprive vulnerable, low-income Americans--people no one doubts are U.S. citizens--Medicaid coverage,” said Mary Anderson, an attorney at Goldberg Kohn, a private Chicago firm, also representing the plaintiffs. “We are disappointed that U.S. citizens will continue to have to prove and reprove their citizenship using the confusing, time consuming, and by all accounts unnecessary process set forth in the regulations while this case is proceeding through the courts.”

Plaintiffs will reformulate the pleadings and clarify the request to the court to rule on the validity of the statute. Until a preliminary injunction is granted or Congress acts, 40 million, low-income Americans who need Medicaid coverage will have to continue to scramble to locate and pay for documents on HHS’s list of acceptable proof and many will not be able to do so or do so in time to avoid denial or loss of Medicaid coverage.

Nearly One Million Working-Poor Families May Get a New Chance to Save: Savings for Working Families Act Has Bipartisan Support

The Savings for Working Families Act (H.R. 4751) provides an opportunity for 900,000 working-poor families to build wealth and enter the middle class. The bill

A Revised Edition of the Federal Practice Manual for Legal Aid Attorneys

The *Federal Practice Manual for Legal Aid Attorneys*, an invaluable resource for legal aid and public interest lawyers, has been updated. Edited by Jeffrey S. Gutman, professor of clinical law and associate dean for Academic Affairs at George Washington University Law School, and published by the Sargent Shriver National Center on Poverty Law, the 2006 edition is now available in PDF format. Topics covered include preparing for litigation, jurisdiction, drafting and filing the complaint, causes of action, pretrial and trial practice, limitations on relief, and relief. Individual chapters from the manual are available for download free of charge from the Shriver Center’s online Poverty Law Library.

An HTML version of the manual, including links to hyperlinks to statutes, case documents, and model pleadings, is forthcoming on eJustice.org, the Shriver Center’s national technology project. The HTML version will also include links to several supplemental materials, such as annotated model pleadings.

provides incentives to the private sector through tax credits to offer Individual Development Accounts (IDAs) to help low-income families build appreciating assets, such

as a first home, a postsecondary education, or a small business.

The bill provides tax credits to financial institutions that offer IDAs. Financial institutions that give a dollar-for-dollar match on an individual’s savings deposits and impart financial education for its customers receive tax credits. Once the individual accumulates enough money and receives financial education, the financial institution pays an asset provider, such as a college or mortgage lender, on behalf of the individual.

IDA programs are typically funded through small federal, state, or private efforts. Today 50,000 people have had a chance to build wealth and move into the middle class through IDA programs. The Savings for Working Families

Act, which has bipartisan support, would make the opportunity available to almost a million people.

“This bill would drastically increase the number of individuals who can build savings through an IDA program,” said Dory Rand, supervising attorney of the Shriver Center’s Community Investment Unit. “It greatly increases access to mainstream financial services for low- and moderate-income people by incentivizing financial institutions to offer their products and services.” Please urge your representatives to support the bill if they are not yet on the growing list of cosponsors. Contact your representatives by calling the capitol switchboard at 202.224.3121 or by sending e-mail by clicking [here](#).

The Shriver Center, along with community groups, banks, regulators, and researchers across the country, advocates expanding asset-building opportunities and access to mainstream financial services.

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

Illinois Submits Plan for Changes in the TANF Program

All states were required to submit by September 30, 2006, to the U.S. Department of Health and Human Services a work verification plan outlining their plans for implementing changes in their Temporary Assistance for Needy Families (TANF) programs in accordance with the Deficit Reduction Act. These plans are a work-in-progress and subject to change, as described below. Still, the work verification plan submitted by the Illinois Department of Human Services (IDHS) offers valuable insight into how Illinois intends to implement the congressionally mandated changes in the TANF program. In general, Illinois’s plan includes many provisions aimed at maximizing flexibility for TANF participants within the stricter parameters of the new federal law.

The Deficit Reduction Act requires states to place many more TANF recipients in countable work activities than before. Although the percentage of the work eligible caseload that must be participating in countable activities for the minimum number of hours (30 hours per week or 20 hours for single parents with a child under 6) remains 50 percent, the formula for calculating the “caseload reduction credit” was changed. Previously states could subtract from their 50 percent work participation rate requirement the percentage that the caseload had been reduced since the passage of welfare reform in 1996. This

reduced the effective work participation rate in many states, including Illinois, to zero. Now states must use 2005 as the base year for this calculation, significantly raising the effective work participation rate.

Another major Deficit Reduction Act change is that, instead of allowing the states to define countable work activities, the federal government is now defining them, and in some instances much more narrowly than the states did. The last major change is that states are now required to document in much greater detail clients’ actual hours of participation in countable activities.

The new focus on actual hours of attendance in an activity or program is reflected in IDHS’ work verification plan’s increased reporting requirements for contractors, caseworkers, and clients. Contractors who offer clients a mix of activities now have to delineate how many hours are spent in each component activity. Many clients are now required to meet with their case manager every two weeks instead of monthly to track their hours of actual participation better. To manage these new date-reporting requirements, IDHS’ work verification plan states that a centralized electronic TANF work and training database will be developed to maintain client data including actual hours of participation in each activity.

IDHS’ work verification plan includes some changes in the vocational education program. IDHS is tightening up on the rules for participating in vocational education since only 30 percent of countable participants may be in this activity. All clients now have to submit proof of satisfactory progress at the end of each term or twice a year if the program lasts more than 12 months. As in current policy, IDHS will allow one hour of study time for every hour of class time. Contracted providers such as the Work First contractors no longer may use vocational education as a core activity but may use On the Job training and Job Skills Training to cover activities that previously might have been classified as vocational education.

The new federal law limits excused absences to ten per year. IDHS defines excused absences expansively to include periods when programs are shut down for vacation breaks. IDHS counts excused absences based on hours (10 days equals 240 hours) to give participants maximum flexibility. This will allow a participant who needs to attend a two-hour doctor appointment, for example, to use up only those hours of excused absence time instead of a whole day. IDHS is also expansive in its definition of persons caring for a disabled family member and excludes them from the definition of work-eligible individuals.

IDHS said that it would be focusing its attention more on, though not included in the work verification plan, parents of children aged 13–30 months (parents with children under age 1 are exempt from participation). According to IDHS, this population has not been as engaged in work activities as other population groups and must become engaged for IDHS to satisfy its 50 percent work participation requirement. The new, expensive costs associated with providing child care assistance to this population will need to be addressed.

IDHS indicated that it would seek additional state funding to accomplish two goals set forth in the work verification plan: (1) for an administrative fee for IDHS contractors and other noncontracted service providers where TANF clients are performing their activities to help defray their additional costs in reporting actual hours of client participation and (2) for the centralized electronic TANF work and training database.

IDHS will receive the federal agency's response to its work verification plan within 60 days. IDHS will then amend its plan to respond to any federal objections and make additional amendments as its own plans for changes in the TANF program evolve. IDHS will not be subject to penalties for noncompliance with the Deficit Reduction Act's new requirements until the start of the next federal fiscal year in October 2007.

For more information on TANF rule changes, see "New TANF Rules: Less Flexibility, More Red Tape," POVERTY ACTION REPORT, July 2006, www.povertylaw.org/news-and-events/poverty-action-report/2006-july/new-tanf-rules. The Shriver Center filed comments with the Office of Family Assistance, Administration for Children and Families, on the interim final rule for the TANF program published on June 29, 2006. These comments can be viewed at <http://www.povertylaw.org/advocacy/publications/2006-tanf-comments.pdf>.

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Housing Roundtable Sets 2007 Advocacy Agenda

Member organizations of the Illinois Housing Roundtable, including the Sargent Shriver National Center on Poverty Law, met on October 5 to discuss several legislative initiatives for 2007.

The Shriver Center, Housing Action Illinois (HAI), and the Lawyers' Committee for Better Housing (LCBH) are planning legislation to prevent sheriffs from executing a judgment for eviction if the temperature is too low. In

Illinois, if the temperature drops below 32 degrees, turning off tenants' electricity or gas without giving 24 hours' notice is already prohibited, but people may be thrown out of their homes regardless of the temperature. With new provisions in Illinois law, tenants may be spared some hardship during severe winter weather.

The Shriver Center, HAI, and LCBH are coordinating an initiative to find alternatives to evicting seniors from their apartments. In their proposed Eviction Prevention Program, based upon a successful model in Washington, D.C., landlords would voluntarily refer an elderly tenant at risk of eviction. Participants would receive legal and social services that promote lease compliance and maintain independent living, thereby reducing the rate of senior homelessness.

In 2006 the Shriver Center, HAI, and LCBH helped pass Illinois's Safe Homes Act, allowing victims of domestic violence and sexual violence to change their locks or break their leases or both in order to protect their physical safety under certain circumstances. Amendments would strengthen this legislation by, for example, allowing victims and landlords in certain limited situations to prevent an abuser or leaseholder from gaining access to the property.

HAI, Chicago Coalition for the Homeless, and Business and Professional People for the Public Interest introduced a promising initiative to reform Illinois's real estate transfer tax (RETT) to create millions of dollars in new funding for affordable housing and the environment. The proposal would increase the RETT on high-end properties and produce an estimated \$121 million for an affordable housing trust, while decreasing the tax on 95 percent of state transactions. Illinois's RETT is among the lowest in the country and is split evenly between affordable housing and environmental trust funds. Legislators are already interested in the measure, which should create a total of \$184 million in funding for the two trusts.

HAI is advocating an increase in funds for the Emergency Food and Shelter Grant Program, which is vital in moving people from homelessness to housing but has suffered sharp budget cuts in recent years. The program benefits overnight and transitional shelters and helps underwrite supportive services, such as transport assistance, case management, and counseling for the homeless. In the 2003 fiscal year \$9.7 million was allocated to the program, but funding dropped to \$8.8 million in the 2007 fiscal year. HAI is seeking \$11.5 million in funding for the 2008 fiscal year.

In the 1999 *Olmstead* decision the U.S. Supreme Court required all states to develop plans to give disabled and

senior citizens the option to utilize community-based services rather than receive institutional care. Illinois has yet to comply with the requirement, prompting the introduction of the Illinois Olmstead Implementation Act. The Illinois Network of Centers for Independent Living (INCIL) and Campaign for Real Choice in Illinois will work to pass this legislation.

Roundtable members will seek increased funding for supportive housing, additional supportive housing for women recovering from drugs and alcohol, improved implementation of the Residential Real Property Disclosure Act, and the creation of children's savings accounts to promote asset development.

For more information, visit www.housingmatters.net.

Tools for Keeping Current While Avoiding Information Overload

Staying informed of legal developments and news is a challenge for most of us. In a sea of information sources, what are the best websites for poor people's advocates seeking to stay informed on various topics? What technology tools are available to aggregate relevant information and serve it to you on demand?

Four articles recent posted to [eJustice](#) can help. [Legal Research on the Internet](#) is a guide to the best sources for substantive legal information of interest to poverty lawyers. An [accompanying article](#) describes the features of the Sargent Shriver National Center on Poverty Law website, which serves as an information hub for legal aid advocates. [Really Simple Ways to Keep Up with News and Information](#) describes really simple syndication, or RSS, and how to use it to keep track of news that is of particular interest to you. A [final article](#) features links to particularly useful RSS feeds. Each article includes links to helpful screencasts that offer demonstrations of the topics discussed.

Hospital Tax Status Ruling May Affect Charity Care Statewide

The Illinois Department of Revenue recently affirmed a Champaign County Board of Review decision to deny Provena Covenant Medical Center's application for tax-exempt status in 2002. At the crux of the final administrative decision (available at www.taxx.illinois.gov), however, was the admission that the hospital's 2002 revenues exceeded \$113,000,000 while its charity care program cost it only \$831,724 or 0.7 percent of revenue, which was less than the value of the property tax exemption it was seeking.

The Provena Covenant charity care program in existence in 2002 was similar to many hospital programs under scrutiny as advocates consider the value of the tax breaks in light of the amount of charity care they provide in return. Echoing this concern, the Center for Tax and Budget Accountability just released a report entitled "An Analysis of the Tax Exemptions Grant to Cook County Non-Profit Hospitals and the Charity Care Provided in Return" (www.ctbaonline.org).

Ironically, since 2002, Provena administrators have been regularly meeting with health care consumer advocates to improve their charity care programs. Improvements include the following: income eligibility ceilings have increased substantially resulting in a 100 percent discount for households with income below 200 percent of the federal poverty level, publicity for community care discounts, improved applications, removing time limits for applying for the discount, and giving 100 percent discounts on past-due debt to all households currently receiving Medicaid.

The roots of the case include a convergence of a number of factors that led to scrutiny of a property tax exemption that had been taken for granted. Champaign County was part of an Access Project study of the consequences of medical debt. That same study included an analysis of bankruptcy petitions to determine the impact of bankruptcy filings on medical debt. The *Wall Street Journal* ran a series of articles about Champaign County hospitals' "aggressive" debt collection practices, including using collection agencies and body attachments. In its application for tax-exempt status, Provena Covenant did a poor job of distinguishing the for-profit businesses from the nonprofit operations located in the facility.

There is a big difference to consumers between "bad debt charges" and charity care or community care discounts. Hospitals might have been somewhat cavalier about the distinction. There may be very little difference to a hospital's bottom line (hospitals don't get paid in either case), and now hospitals may jeopardize their tax-exempt status if they do not do a better job of attending to the needs of the medically indigent in their communities.

For more information, contact guest writer Valerie Williams at vmcwilliams@lollaf.org.