

# Clearinghouse REVIEW

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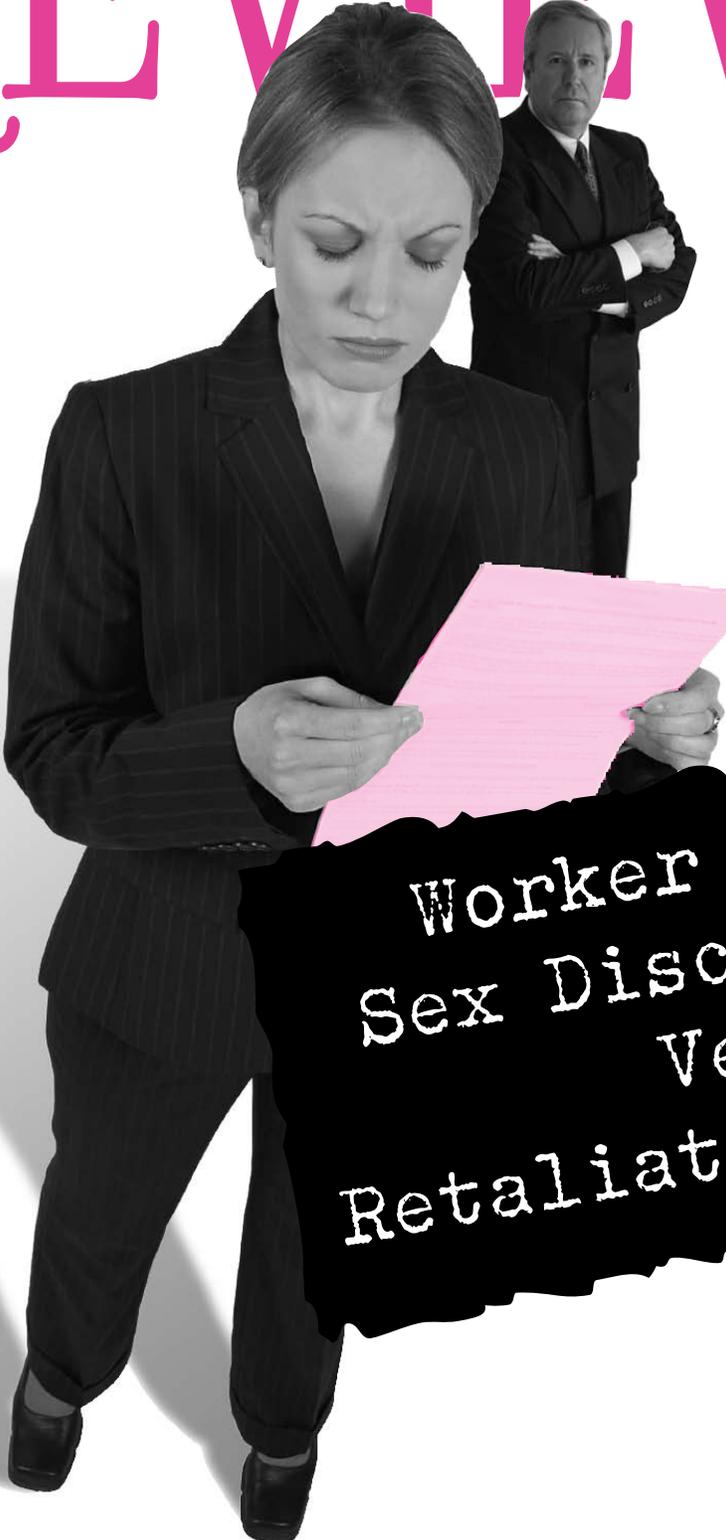
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## ***Bell v. Leavitt* Plaintiffs Move to Dismiss Their Case Voluntarily**

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).

## Economic Well-Being Changes When Poverty Is Redefined, According to the Census Bureau

Income distribution appears to change when the definition of “income” includes or excludes various components, according to the U.S. Census Bureau’s report *The Effects of Taxes and Transfers on Income and Poverty in the United States: 2005*, issued last March. Among these components are government programs (such as social security, food stamps, and income tax) and imputed resource measures (such as realized capital gain and rental insurance). When different factors are used to define income, the levels of economic well-being change. This causes taxes and transfers to have a different impact. The report presents four sources of income: money income, market income, post-social insurance income, and disposable income. Each describes a different state of economic well-being. The report uses tables to contrast the relative definitions of poverty with one another.

A discussion of the Consumer Price Index for All Urban Consumers (CPI-U) and the Consumer Price Index Research Series Using Current Methods (CPI-U-RS) is applicable to advocates. The CPI-U and the CPI-U-RS are the price indexes used to update dollar figures for inflation. The CPI-U-RS is an inflation index, dating from 1978 through the present, applying the methodological improvements to every year of the series. This research is relevant because “comparing the outcomes when alternative inflation indexes are used to adjust the thresholds highlights the effects of the indexes on trends in poverty.” What changes need to be made in order to conquer poverty in America can be seen clearly by isolating economic factors and comparing alternative definitions of poverty. See the report at [www.census.gov/prod/2007pubs/p60-232.pdf](http://www.census.gov/prod/2007pubs/p60-232.pdf). The Census Bureau’s website has more information on alternative income and poverty definitions, including tables on Alternative Poverty Estimates, at [www.census.gov/hhes/www/poverty/whatsnew.html](http://www.census.gov/hhes/www/poverty/whatsnew.html).

## That 28 Million Children Live in Low-Income Families Shapes Nation’s Future, Congressional Testimony Says

Poverty affects everyone, not just those living in it; more than twenty-eight million children in the United States currently live in low-income families, and this reality shapes the future of our nation. So Jane Knitzer, director of the National Center for

Children in Poverty, said in her testimony on the economic and social costs of poverty before the U.S. House Committee on Ways and Means last January. Explaining that the continuation of children living in poverty concerns our economy and our country’s future, Knitzer stressed that we need to take care of the nation’s children now in order to ensure future productivity for our economy. This means investing in early education and proper health care, focusing on early relationships and high-quality parenting, making work pay for children and families, and helping families move out of poverty. Children living in poverty are “at risk of not making it in the global economy, not have the educational skills they need, not being healthy both mentally and physically and not being effective parents when they become adults.” Thirty-nine percent of children are living in low-income families, defined as families with income twice below the poverty level. View Knitzer’s full testimony at [http://nccp.org/pub\\_wmto7.html](http://nccp.org/pub_wmto7.html).

## Urban Institute Commentator Calls for Investment in Children

Investing in children should be a budget priority for America, Eugene Steuerle argues in *The Government We Deserve*, a new periodic Urban Institute e-mail commentary on “the nation’s most pressing social and economic issues.” In his inaugural commentary, “Crumbs for Kids,” the Urban Institute senior fellow and former deputy assistant secretary of the Treasury contrasts a family, where a large percentage of the household income is spent on children, with the federal budget, which currently allocates a small percentage toward children’s needs. Steuerle analyzes economic and legal patterns and predicts that by 2017 this percentage will be even smaller. He urges both parties to change the pattern and invest in the nation’s future—the children. “Our skewed priorities defy reason as well as fairness. As the kids’ share of the budget shrinks and we invest in them proportionately less, how can we expect them later to earn the money to pay the taxes to cover our ballooning pile of retirement and health benefits? Think about it: we’ve put into the law that they owe us ever more and we owe them ever less,” Steuerle says. To subscribe to the commentary, go to [www.urban.org/about/signup.cfm](http://www.urban.org/about/signup.cfm).

## How to Prevent Foreclosure

*Foreclosure Prevention Counseling* (340 pages with CD-ROM), off the press last April, gives detailed advice on the mechanics of obtaining a workout, with

specific options for Fannie Mae, Freddie Mac, subprime, Federal Housing Administration-insured, Veterans Administration, and Rural Housing Service loans, according to its publisher, the National Consumer Law Center. The book examines ways families can reduce expenses, increase income, and avoid loans that can get them into even more trouble. The book tackles such other topics as legal defenses to foreclosure, special rights of those in the military, challenges to overcharges and servicer errors, bankruptcy as a way to stop a foreclosure, and steps to take even after the foreclosure.

The appendices and companion CD-ROM contain sample forms, checklists, and other key documents, along with state-by-state summaries of foreclosure and real estate tax abatement laws. For more details, go to [www.consumerlaw.org/publications/counselors/fore\\_prev\\_couns.shtml](http://www.consumerlaw.org/publications/counselors/fore_prev_couns.shtml).

### **More of *Federal Practice Manual for Legal Aid Attorneys* Now Available in HTML Format**

Chapters 1–6 and 8–9 of the *Federal Practice Manual for Legal Aid Attorneys*, edited by Jeffrey S. Gutman, professor of clinical law and associate dean for academic affairs at George Washington University Law School, are now available in HTML (hypertext markup language) format. Published by the Sargent Shriver National Center on Poverty Law, this version of the *Manual* includes hyperlinks to federal statutes, Supreme Court case citations, and case pleadings available through the Shriver Center's Poverty Law Library. The full text of the manual is searchable by keyword. Chapter 7 and a documentary supplement of annotated model pleadings are still being edited and will be posted online soon.

To view the HTML version of the *Federal Practice Manual for Legal Aid Attorneys*, visit the eJustice website, [www.ejustice.org/federal-practice-manual/](http://www.ejustice.org/federal-practice-manual/).

### **Shriver Center Completes Its Reorganization**

The Sargent Shriver National Center on Poverty Law completed its reorganization last April with the appointment of Elizabeth Ring as vice president of operations, a new position.

Ring was vice president—operations at the Alliance for Illinois Manufacturing, a collaboration of taxpayer-supported and nonprofit organizations to transform Northeast Illinois manufacturers into globally competitive companies. She helped shape Norbic, a 30-year-old local industrial retention organization, into a regional alliance to lift people in Illinois out of poverty by creating and retaining the best-paying jobs for women and minorities in underserved communities. She was a White House Fellow responsible for international economic and trade research. She has an MBA in international management from the Thunderbird School of Global Management and a bachelor's degree in international relations and economics from Wellesley College.

The Shriver Center's reorganization began on January 1, when John Bouman was named president. Rita McLennon, who had been executive director for 14 years, initiated the reorganization. McLennon now serves as vice president of external affairs. Ilze Hirsh was named vice president of communication programs and concurrently editor of *CLEARINGHOUSE REVIEW*. As vice president of operations, Ring oversees human resources, procurement, information technology, and financial management, among other operations. Ring's new position ensures that Bouman can focus on the Shriver Center's advocacy agenda while McLennon is devoted to fostering private-sector support for the work of the Shriver Center.

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