Kentucky Medicaid Waiver Scheme Halted by Federal Court

Trump's HHS Faulted for Agency Overreach; KY Medicaid Waiver Plan Sent Back to HHS

RELEASE: June 29, 2018

CONTACT: Jeremy Leaming, leaming@healthlaw.org, Anne Marie Regan, amregan@kyequaljustice.org, & Jen Fuson, jen.fuson@splcenter.org

Washington – The Trump administration acted in an arbitrary and capricious manner in approving Kentucky's Medicaid waiver plan that included numerous obstacles to accessing Medicaid health care services, such as requiring Kentuckians to document work hours to access and obtain health care, a federal judge ruled today.

National Health Law Program, Kentucky Equal Justice Center, and Southern Poverty Law Center are representing 16 Kentuckians in the class action lawsuit, *Stewart v. Azar*. The law firm, Jenner & Block is representing National Health Law Program in *Stewart*.

National Health Law Program Legal Director Jane Perkins said, "Medicaid matters, and today is a victory for Medicaid, Medicaid beneficiaries, and the rule of law. The Trump administration's attempt to transform the Medicaid program through executive action has been restrained. The purpose of the Medicaid Act is to furnish medical assistance, and this approval could not stand because it was doing just the opposite –restricting coverage." Perkins also noted, "The proposal to take health coverage away from people who did not meet the new work requirements has been the focus of attention. Of course, we all want stable and well-paying jobs but taking away health coverage if a person fails to meet the requirement is not consistent with Medicaid's purpose – which the Medicaid Act says is to furnish medical assistance. There are better – and legal – ways to help people find work – job training, child care, affordable transportation, and a decent minimum wage."

Kentucky's Sec. 1115 waiver plan called "Kentucky HEALTH," was set to take effect on July 1. The judge's decision vacates the approval and remands back to HHS. Because of the judge's ruling, Kentuckians will continue to be able to access Medicaid health services.

"There is a reason why no previous administration has approved the severe provisions Kentucky is so bent on pressing – they do not furnish health care services. Instead they punish the very populations Medicaid is intended to protect," said National Health Law Program Senior Attorney Catherine McKee. McKee added, however, "We are expecting an appeal by the Trump administration and Kentucky's governor."

KEJC Senior Attorney Anne Marie Regan said, "We are very pleased that Judge Boasberg's ruling recognizes that Kentucky's Medicaid waiver would not have furthered the purpose of Medicaid, which is to provide medical care to those who cannot afford it. Instead, the waiver would have reduced medical services, set up bureaucratic barriers to care and resulted in nearly 100,000 Kentuckians losing Medicaid. We need to refocus on continuing to improve overall health, as Kentucky has been able to do since expanding Medicaid."

Southern Poverty Law Center Deputy Legal Director Samuel Brooke said, "Medicaid has always been a crucial safety net to help those most in need get back on their feet. By imposing new onerous conditions to qualify for the program, Kentucky's Medicaid waiver effectively locks out the very people it was designed to help, in violation of the Medicaid Act. We are pleased with the court's ruling preventing the waiver from going into effect. The ruling will help ensure that low-income individuals and families across Kentucky will continue to be able to access appropriate health care services without any undue delay.

For more attorneys' comment on today's outcome in *Stewart v. Azar*, please contact: Jeremy Leaming, National Health Law Program, 301.233.0867, leaming@healthlaw.org; Anne Marie Regan, KEJC, 502.468.9403, amregan@kyequaljustice.org; or Jen Fuson, SPLC,202.834.6209, jen.fuson@splcenter.org.