

GOVERNMENT

CT plaintiffs urge Biden to rescind Trump-era Medicaid cuts

State Sen. Martin Looney also calls on Dept. of Health and Human Services to end rule



by Lisa Hagen

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Sheldon Toubman, an attorney working with Disability Rights CT, said there's about 6,600 people in the state who lost benefits. [ARIELLE LEVIN BECKER / CTMIRROR.ORG](#)

In response to a lawsuit filed by three disabled women in Connecticut over a Trump-era rule on Medicaid cuts, a top Democrat in the state

Senate is calling on the Biden administration to rescind the regulation that critics say violates a law providing pandemic relief.

Senate President Pro Tempore Martin Looney, D-New Haven, sent a letter this week calling on the Department of Health and Human Services to immediately throw out a rule requiring states to terminate benefits for certain enrollees on the health program designed for low-income and disabled individuals.

Looney's call comes more than a week after the trio of women filed a lawsuit in U.S. District Court in Connecticut against HHS Sec. Xavier Becerra asking him to invalidate what's referred to as an interim final rule from November 2020. The named plaintiffs are just a few of the thousands in Connecticut who have lost Medicaid benefits during the pandemic.

For people like Brenda Moore, those benefits have been critical as someone with a vascular disease and other health problems that make it challenging to do most things on her own. The 58-year-old New Haven resident said her aide helps her with everything from getting out of bed, getting dressed and preparing meals. Without the assistance from Medicaid, she says she won't be able to keep receiving care from her aide.

Disability advocates argue that the rule undermines the "Families First Coronavirus Response Act," a law passed by Congress in March 2020 as one of the first responses to the pandemic. It stipulates that states receiving enhanced federal Medicaid funds can't terminate or reduce a person's benefits through the end of the month when the public health emergency ends, even if that person is no longer eligible. If they maintain that coverage, state Medicaid agencies receive an extra 6.2% in reimbursements.

Becerra recently extended the public health emergency over COVID-19 until Oct. 13.

But a rule implemented just days after the 2020 presidential election created more exemptions and mandated that states receiving the funds must cut certain people from the rolls: those who are also enrolled in a

Medicare Savings Program and non-citizens who have lived in the U.S. for less than five years unless they're a minor or pregnant.

Attorneys for the plaintiffs argue that Trump's HHS did an "about face" and violated the Administrative Procedures Act in its implementation of the regulation and that enforcement by the Biden administration is continuing to cause "irreparable harm," according to the plaintiff's motion. Sheldon Toubman, an attorney working with Disability Rights CT, said there's about 6,600 people in the state who lost benefits, and that's only counting the people who are also eligible for Medicare.

In their motion, they noted that the protections provided by the federal law allowed those who qualified for the Medicare Savings Program to remain on the state's Medicaid program HUSKY D, despite that qualification usually making them ineligible.

"Beneficiaries are losing access to critical health care, including access to Medicaid home and community-based services that have allowed them to remain in their homes and communities, and thus avoid institutional congregate settings during the pandemic," Looney wrote in a letter addressed to Chiquita Brooks-LaSure, administrator of the Center for Medicare and Medicaid Services.

Looney said it's possible the General Assembly could take a look at the issue when lawmakers come back into session. In addition to many seniors or disabled people preferring it, he said, receiving care at home is "much more cost effective" than a nursing home.

"This will be one of the many mean-spirited punitive things done by the Trump administration that Biden can reverse," Looney said in an interview.

Since filing the lawsuit, two of the three named plaintiffs – Moore and Deborah Carr – will be able to temporarily keep their benefits since both requested a temporary mandatory restraining order to get immediate relief.

In a filing after a telephone conference last Monday, Principal Deputy Assistant Attorney General Brian Boynton, who is representing HHS,

wrote that CMS won't enforce the rule in regards to the two women until 15 days after the preliminary injunction hearing, scheduled for Sept. 27.

The Department of Health and Human Services did not respond to a request for comment.

Without the benefits, people in Connecticut and around the U.S. could lose access to care that is critically needed, especially for those who require extra assistance.

Moore said she relies on her aide for "everything." She said she never received the notice sent in February that her benefits would end. She found out a month later when payments stopped going through to the in-home aide.

"It's vital to disabled people that we get this help. They cut off people like us who don't get a lot of money a month and have other bills to pay and try to make sure to pay for an aide on our own. We can't because it doesn't cover it. I want other people to come forth and speak on it and maybe we can get something done, because it's just not right cutting people off," Moore said in an interview.

Like Moore, the other two plaintiffs have experienced similar losses in benefits under Medicaid earlier this year after becoming eligible for the Medicare Savings Program.

Carr is a 63-year-old resident of New Haven who has a progressive neurological condition, scoliosis and severe hearing loss. She's been on Medicaid for her entire life but was also informed in February that she'd be cut off from HUSKY D.

Mary Ellen Wilson is a 62-year-old resident of Stamford who was diagnosed with multiple sclerosis in her 50s and has suffered continued dental issues caused by taking anti-seizure medication. In her court filing, she said most of her dental work is not covered by Medicare.

Advocates say that reductions and losses of these benefits disproportionately hurt people of color, like Moore.

“Any loss of Medicaid benefits disproportionately impacts low-income older adults of color, who are already most at risk of institutionalization and illness due to structural health inequities,” Carol Wong, associate litigation director of Justice in Aging, said in a statement.

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