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MEDIA RELEASE

Lawsuit Challenges AHCCCS Copays For Childless Adults

PHOENIX-The William E. Morris Institute for Justice and the National Health Law Program, filed a lawsuit on May 21, 2012, in the U.S. District Court, on behalf of 4 named plaintiffs and a class of similarly situated persons, against Tom Betlach, the Director of the Arizona Health Care Cost Containment System, and Kathleen Sebelius, the Secretary of the U.S. Department of Health and Human Services, in their official capacities. The lawsuit claims the Secretary unlawfully approved heightened and mandatory copayments for medical care for low-income single adults and couples without minor children in the home, often referred to as “childless adults,” in violation of the Social Security Act.

The lawsuit alleges that the U.S. Department of Health and Human Services gave AHCCCS permission to impose the copayments and that these copays exceed the amounts allowed by the Medicaid Act and will allow providers to deny medical care and services to Medicaid beneficiaries who are unable to pay the copays, in violation of federal law. While the Secretary can waive the Medicaid copayment provisions, Plaintiffs claim the Secretary did not comply with federal law in her approval. Finally, the lawsuit also alleges that the notice AHCCCS sent out to participants informing them of the copays violated the due process requirements of Medicaid Act and the U.S. Constitution.

These copays include \$4 for each generic prescription; \$10 for a brand name prescription; and \$5 for an office visit. The lawsuit alleges these costs can be prohibitively expensive for persons on several medications with limited or no income.

The lawsuit alleges that because persons eligible for Medicaid services are low-income, the imposition of the copays will preclude or deter persons from getting the medications and medical care they need.

Ellen Katz, Litigation Director for the Institute stated, “The Medicaid Act allows for only nominal and non-mandatory copays for services for persons with incomes under 100% of the federal poverty level. Plaintiffs claim that when the Secretary reviewed AHCCCS’ request for approval of the heightened and mandatory copayments, the Secretary failed to consider Plaintiffs’ expert’s opinion that copayments are not novel or experimental, have been extensively studied for over 35 years and the research shows the copayments adversely impact low-income persons from getting needed medical care. Plaintiffs claim they had to go without their prescription drugs and doctor’s visits because they did not have the money to pay the copays. Two of the Plaintiffs ended up in the emergency room because they could not get needed medical care.”

For further information, contact Ellen Katz at (602) 252-3432.

The William E. Morris Institute for Justice is a non-profit program that advocates on behalf of low-income Arizonans.

The National Health Law Program is a national advocacy program specializing in health care issues for low-income persons.

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