

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

RONNI RABIN, ET AL., :  
 :  
 Plaintiffs, :  
 :  
 V. : CASE NO. 3:03CV555(RNC)  
 :  
 PATRICIA WILSON-COKER, :  
 in her official capacity as :  
 Commissioner of the State of :  
 Connecticut Department of Social :  
 Services, :  
 :  
 Defendant. :

TEMPORARY RESTRAINING ORDER

Plaintiffs, on behalf of themselves and a putative class of similarly situated Connecticut residents, have moved for a temporary restraining order prohibiting defendant from terminating their Medicaid benefits as of April 1, 2003. The motion is hereby granted.

I. Background

Plaintiffs are individuals who receive Medicaid benefits under Connecticut's Husky A for Families coverage program. They have family income of between 100% and 150% of the federal poverty level. As a result of changes made to the coverage program by Connecticut Public Act 03-2, limiting eligibility to individuals with income of up to 100% of the federal poverty level, plaintiffs have been notified that their Medicaid benefits are subject to termination as of April 1, 2003. Approximately 30,000 Medicaid beneficiaries may lose eligibility as a result of this change.

On or about March 10, 2003, defendant mailed notices to affected individuals informing them that, as a result of the change in state law, their coverage under the Husky A for Families program would terminate as of April 1. The notices set forth a statement of the individual's income and instructed recipients to contact the Department of Social Services if they believed the information was inaccurate. The notice also stated that if the individual requested a hearing within ten days of receipt of the notice (i.e. on or before March 21), his or her benefits could be continued until the date of the hearing, even if the hearing ultimately took place after August 1. The notice implied that a hearing request had to be submitted before March 21 to entitle a person to continued receipt of benefits pending the hearing.

Sudden termination of plaintiffs' Medicaid coverage creates a serious risk that they will be unable to obtain necessary care, treatment and prescription drugs because they are unable to afford these necessities on their own. Without continued coverage, each plaintiff is likely to suffer significant adverse consequences, including, in some instances, seizures, swelling, and pain.

Plaintiffs do not challenge the State's right to limit eligibility for Medicaid benefits under the Husky A for Families program to persons whose income does not exceed 100% of the federal poverty level. What they do challenge is the State's implementation

of the new law. They claim that the vast majority of those affected by the change remain eligible for Medicaid pursuant to 42 U.S.C. § 1396r-6; that applicable law prohibits sending a termination notice to an affected individual until the State has determined that he or she is not eligible for Medicaid under other coverage programs; and that the termination notice they received is legally invalid because, among other things, it fails to state that by submitting a hearing request before the termination date a person secures continued coverage at least until the hearing is held.

## II. Discussion

To obtain a temporary restraining order, plaintiffs must demonstrate (1) that the order is necessary to prevent irreparable harm, and (2) either (a) sufficiently serious questions going to the merits of the case and a balance of hardships tipping decidedly in her favor or (b) a likelihood of success on the merits. Phillip v. Fairfield University, 118 F.3d 131, 133 (2d Cir. 1997).

### a. Irreparable Harm

The Second Circuit has not addressed the issue whether improper termination of Medicaid benefits necessarily constitutes irreparable harm. However, two courts of appeals have so held. See Harris v. Blue Cross Blue Shield of Missouri, 995 F.2d 877,879 (8<sup>th</sup> Cir. 1993); Massachusetts Ass'n of Older Americans v. Sharp, 700 F.2d 749, 753 (1st Cir. 1983).

Based on the present record, I am persuaded that relief is necessary to avoid a substantial risk of irreparable harm. Plaintiffs suffer from serious medical conditions that require medication, monitoring, and treatment. They have been receiving these things because of the coverage provided by the Husky A for Families program. If their coverage is suddenly terminated, they will not be able to afford necessary care and treatment. The adverse effects on their health, well-being and ability to work cannot be predicted with certainty, at least not on the basis of the current record, but it is likely that in many instances the effects would be severe.

b. Likelihood of Success

It is undisputed that the notice of termination mailed to affected individuals on or about March 10 is defective. In particular, it is conceded that a person facing termination of Medicaid coverage has a right to submit a hearing request anytime up to the termination date, and that such a request secures a right to continued coverage until the hearing occurs. 42 C.F.R. §§ 431.210(e), 431.211 and 431.230(a). The notice of termination fails to adequately inform people of these rights. Because states are required to provide legally valid notice before terminating benefits, plaintiffs are likely to prevail on this basis alone.

III. Conclusion

Accordingly, it is hereby ordered:

1. Plaintiffs' motion for a temporary restraining order is granted.
2. Defendant is temporarily enjoined from terminating, on the basis of the notice of termination mailed to plaintiffs and similarly situated individuals on or about March 10, 2003, plaintiffs' continued receipt of Medicaid benefits under the Husky A for Families program.
3. Defendant is temporarily enjoined from terminating plaintiffs' coverage under the Husky A for Families program unless and until they are given notice of termination in compliance with applicable law.
4. No bond or other security is required.

Dated at Hartford, Connecticut this 31st day of March 2003.

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Robert N. Chatigny  
United States District Judge