

KEJC Impact Advocacy Report

July 2018

Public Benefits Advocacy

Stewart v. Azar, Civ. No. 1:18-cv-152 (JEB), 2018 WL 3203384 (D.D.C. June 29, 2018)
(With NHeLP, SPLC and Jenner & Block)

- Court granted our Motion for Summary Judgment and vacated Kentucky's 1115 Medicaid waiver – held that CMS failed to consider the impact it would have on individuals (when state estimated 95,000 people would lose coverage) and failed to consider whether the waiver would further the purpose of Medicaid (to provide health insurance to those who cannot afford it)
- Lawsuit filed in Washington, DC on behalf of 16 Kentuckians against federal agencies that approved Kentucky's 1115 Medicaid waiver
- Defendant's motion to transfer the case to federal court in Kentucky denied
- Governor's motion to intervene granted (unopposed)
- 2 Amicus briefs filed in support of plaintiffs – AARP *et al.*; Scholars *et al.*
- Attended Court hearing in DC on 6/15
- Participated in press interviews
- Arranged numerous press interviews with plaintiffs
- Now dealing with Governor's reaction – immediate cut to dental/vision and non-emergency medical transportation
 - Court's order restored KY to status quo – did not require state to cut benefits
 - KY cut benefits without CMS approval of State Plan Amendment
 - Sent letter to CMS asking them to send SPA back to state for comment period
 - Filed Open Records Request to state asking for all versions of SPA and CMS approval – state has not responded within 3 days, preparing to ask AG to review
 - Preparing demand letter to state to restore vision, dental, NEMT

Commonwealth of Kentucky, ex rel. Matthew G. Bevin, Governor et al. v. Stewart et al.
(E.D. Ky. 2018) – **With Southern Poverty Law Center**

- Lawsuit filed against all 16 plaintiffs in our *Stewart v. Azar* case, seeking declaratory judgment that federal approval of waiver was proper and legal
- Kentucky Association of Health Plans and Kentucky Hospital Association filed motions to intervene in support of Governor – decision pending
- We filed Motion to Dismiss – decision pending
- Considering next steps in light of *Stewart v. Azar* Order

Commonwealth of Kentucky, Cabinet for Health and Family Services v. Anne Marie Regan - (Franklin Circuit Court, now Court of Appeals) – **With Southern Poverty Law Center**

- We appealed Cabinet's refusal of our open records request for Medicaid waiver documents and received favorable decision by AG
- Cabinet filed complaint/appeal with court - cross Motions for Summary Judgment
- Court ordered Cabinet to provide records to us – found records not exempt as preliminary recommendations or opinions
- Court found Cabinet's refusal to submit records to AG for *in camera* review violated Open Records Act
- Filed motion for attorney's fees, penalties and costs – court holding in abeyance pending appeal
- Cabinet has filed appeal to Kentucky Court of Appeals
- Filed Supplemental Pre-Hearing Statement and Pro Hac Vice motion

Other Advocacy

- Participated in SNAP advocacy on Farm Bill
- Participated in health care Boots call – gave update on *Stewart v. Azar*
- Referred 2 cases to Rapid Response Team (benefind issues)
- Attended Legal Services Statewide Conference – presented Consumer Task Force report and update on *Stewart v. Azar*
- Participated in KEJC Legal Work Committee conference call
- Call with Rich to discuss Senior Litigation and Advocacy Counsel job description and listing
- Responded to Kentucky Voices for Health request for info about benefit appeals process

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