

Along with co-counsel for AARP, files amicus brief on behalf of 20 non-profit organizations in Douglas v. Independent Living Center

Washington D.C.—The National Health Law Program (“NHeLP”) and the AARP Foundation Litigation today filed an amicus, or “friend-of-the-court,” brief in the U.S. Supreme Court on behalf of 20 organizations that represent low-income Americans urging the Court to uphold the right of private citizens to enforce federal Medicaid laws.

The lead case, *Douglas v. Independent Living Center of Southern California*, will determine the extent to which Medicaid participating providers and Medicaid beneficiaries can bring lawsuits against state Medicaid officials who are reducing Medicaid payments beyond the limits permitted by federal law.

The lawsuit was triggered when the California legislature attempted to severely limit the rates the state would pay Medicaid-participating providers. As California already had some of the lowest provider reimbursement rates in the country, the move was widely viewed as violating the federal requirement that rates be set at competitive levels so that Medicaid recipients and privately insured individuals will have equal access to medically necessary health care.

In May, the United States filed a brief in the case arguing that only CMS, the federal agency responsible for the program, could challenge the state cuts, not the private citizens affected by them. NHeLP’s brief challenges that argument.

“Private enforcement has been the primary means of holding states accountable to the requirements of the federal law since Medicaid was enacted in 1965,” said NHeLP’s Legal Director Jane Perkins. “Numerous Supreme Court cases and every single federal circuit court have recognized the rights of Medicaid beneficiaries to enforce the Supremacy Clause to enjoin invalid state Medicaid laws. The issue is particularly critical at this time when so many states are trying to balance their budgets by making unconscionable cutbacks to their Medicaid programs.”

The brief explains that agency enforcement is not an adequate substitute for private enforcement actions as the agency can only withhold funds as a penalty; it cannot enjoin a conflicting law. It also outlines the lack of support in statute and case law for the Solicitor General's position.

Stacy Canan, senior attorney at AARP Foundation Litigation and co-author of the brief, was disappointed at the position the United States took in the case.

"The Acting Solicitor General submitted a brief on behalf of the United States that ignores the necessity and long history of private enforcement, the standing Supreme Court precedents, and the position the Solicitor General has taken in other, similar litigation," she said. "It is especially surprising given that this Administration has made the availability of quality health care to all such a priority."

Many prominent national organizations joined AARP and NHeLP on the brief, including Families USA, the National Legal Aid and Defenders Association, the National Disability Rights Network, the Center for Medicare Advocacy, First Focus, Voices for America's Children, the Children's Dental Health Project, the National Center for Youth Law, the National Housing Law Project, National REACH Coalition, the Disability Rights Legal Center, the American Network of Community Options and Resources, Planned Parenthood Federation of America, the National Family Planning & Reproductive Health Association, the National Latina Institute for Reproductive Health, the Black Women's Health Imperative, National Asian Pacific American Women's Forum, and the Asian & Pacific Islander American Health Forum.

Arguments in the case will be heard by the Supreme Court on Monday, October 3, 2011.

A .pdf of the amicus brief can be downloaded [here](#).

###

Founded in 1969, the National Health Law Program works with and on behalf of limited-income people, people with disabilities, and children to improve their access to quality health care and to enforce their legal rights to health. NHeLP works with courts, government agencies, and Congress to ensure quality health care for the most vulnerable members of our society. www.healthlaw.org