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The Challenged Law Would Cause Millions of U.S. Citizens Who Can't Produce Passports or Birth Certificates to Lose Health Coverage Starting July 1. People Affected Include Low-Income Seniors in Nursing Homes, People with Mental or Physical Disabilities, and Disaster Victims.

A lawsuit filed today in Federal District Court in Chicago challenges the validity of a new law that requires 50 million Medicaid recipients to prove their citizenship with passports, birth certificates, and other special documents or lose their public health coverage. The new law goes into effect on July 1 and may cause millions of low-income U.S. citizens to become uninsured.

The class action suit names Mike Leavitt, the Secretary of Health and Human Services, as defendant. It seeks to declare the new law unconstitutional and to enjoin the Administration from implementing it.

“Under the new law, American citizens are about to have their health coverage denied for unconstitutional reasons,” said John Bouman of the Sargent Shriver National Center on Poverty Law, one of the attorneys for the plaintiffs. “The new law will cause enormous harm to people who can't produce the special documents, even though there is no doubt that they are American citizens.”

Among the named plaintiffs in the suit is Eddie Mae Binion, 72, of St. Louis, Missouri. Ms.

Binion was given away as a small child and raised by a great grandmother in Mississippi. She has no living relatives, and no one knows where she was born. "I have several severe health problems—I am on dialysis, and I was just released from the hospital following several mini-strokes," Ms. Binion says in a sworn affidavit. "I do not have the energy or the time to search any more for evidence showing that I was born in the United States."

The people at greatest risk of losing Medicaid coverage due to their inability to present passports, birth certificates, or other special documents are seniors in nursing homes, people with mental or physical disabilities, disaster victims, and people not born in hospitals (sometimes due to racial discrimination, especially in the South) who never had birth certificates.

By at least one estimate, approximately 3 to 5 million low-income people are likely to be thrown out of Medicaid because of their inability to produce the required documents. An unknown number of people applying for Medicaid will have delays or not be able to get Medicaid at all because they cannot provide these documents. Due to their low-income status, these people are likely to join the growing ranks of the uninsured.

For more than a decade, Medicaid eligibility has been limited to U.S. citizens and legal immigrants residing in the country for at least five years. Until the new law was passed as part of the Deficit Reduction Act (DRA) this year, documentary proof of citizenship was required only of people whose citizenship was in doubt. The DRA, however, changed that by requiring Medicaid beneficiaries to provide special documentary proof of their citizenship status. According to another attorney for the plaintiffs, Sarah Somers, "this provision has the perverse effect of unfairly penalizing vulnerable American citizens."

The burden of administering this new requirement, applicable to more than 50 million current Medicaid beneficiaries and millions of others who newly apply for the program, will be left to the states, even though cash-strapped states will find the new costs burdensome. California and Ohio state officials have already threatened that they can't comply with the law, even though failure to do so may result in the withdrawal of billions of federal Medicaid dollars from the states.

The plaintiffs' attorneys expect to seek an immediate hearing so that the law can be prevented from going into effect.

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Counsel of record for this case: John Bouman and Margaret Stapleton, Sargent Shriver National Center on Poverty Law; Mary Anderson and David Morrison, Goldberg Kohn Bell Black Rosenbloom & Moritz, Ltd.; Sarah Somers, National Health Law Program; Stephanie Altman and Tom Yates, Health & Disability Advocates; and Gene Coffey, National Senior Citizens Law Center.