Court Orders Lifting Restrictions in Medicaid Coverage for Compression Stockings and Orthopedic Footwear

Federal Court Orders State to Stop Restricting Coverage of Compression Stockings and Orthopedic Footwear.

On July 1, 2016, a federal judge in New York issued an order enjoining state health officials from limiting coverage of orthopedic footwear and compression stockings for some state Medicaid beneficiaries. The Empire Justice Center and the National Health Law Program represented recipients, and argued that the state's elimination of certain orthopedic services violated the rights of Medicaid beneficiaries and individuals with disabilities, pursuant to Medicaid law and the Americans with Disabilities Act. See Empire Justice Center article on final order.

The 2016 order makes permanent the policy issued in 2013 as a result of a preliminary injunction. Following the district court decision of December 9, 2013, the State immediately suspended its implementation of benefit limits on orthopedic footwear and compression stockings. The New York State Department of Health issued an eMedNY Update reverting to the system in place prior to the 2011 changes. Medicaid coverage for these items is no longer limited to those with certain medical conditions. The eMedNY Update is available here. Under the 2016 order, this policy is now permanent. Many beneficiaries without such access to medically necessary accoutrements would likely have to leave their communities for institutions.

EARLIER HISTORY OF LAWSUIT

The lawsuit challenged the State's new limits on compression stockings and orthopedic footwear, providing compression stockings only to those few Medicaid beneficiaries who suffer from specific conditions named by statute. This left many other beneficiaries without medically necessary services.

The District Court originally granted plaintiffs' motion for summary judgment and ordered a permanent injunction against the State's benefit limits. Download the court decision here. The court granted virtually all of plaintiffs' claims, finding that the State's benefit limits violated the reasonable standards and comparability requirements of the federal Medicaid Act, the Due Process Clause, as well as the ADA and Section 504. The State appealed that decision to the Second Circuit Court of Appeals.

The State appealed from that decision arguing primarily that it has discretion to limit services in this way for budgetary reasons because it views them as merely "optional." Download the State's brief here. The State also alleges that plaintiffs have no cause of action under the Supremacy Clause to challenge state laws that are inconsistent with the federal Medicaid reasonable standards requirement, even though the State failed to raise

this argument for summary judgment in the district court.

In support of plaintiffs' claims, the U.S. Department of Justice (DOJ) filed an amicus brief in *Davis v. Shah*, the class action lawsuit DOJ supports plaintiffs' claims that the State's benefit limits place plaintiffs and plaintiff class members at risk of institutionalization in violation of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504). Download the DOJ brief here.

Plaintiffs-appellees arguing that the court correctly found the benefit limits to be in violation of the federal Medicaid Act, the Due Process Clause, the ADA and Section 504. Download plaintiffs' brief here.

In March, 2016, the Second Circuit Court of Appeals issued a decision that resulted in sending the case back to the district court. 821 F.3d 231 (2016). There, the parties reached an agreement that the State would remove the restrictions permanently, keeping the 2013 policy directive in place. That directive was issued as a result of the earlier preliminary injunction. The eMedNY Update is available here.

Article ID: 182
Last updated: 10 May, 2017
Revision: 6
Medicaid -> Court Orders Lifting Restrictions in Medicaid Coverage for Compression Stockings and Orthopedic Footwear
http://health.wnylc.com/health/entry/182/