

Medicaid

Disabled Residents Sue Illinois Over Medicaid Applications

A group of disabled people who require 24-hour skilled nursing care is suing Illinois over the state's failure to timely process their Medicaid applications.

The individuals, who are all residents of nursing homes owned and operated by Alden Management Services Inc., told the U.S. District Court for the Northern District of Illinois Jan. 12 that they are in danger of losing their room, board, care, and services because they can't pay the facilities. The plaintiffs suffer from both mental and physical disabilities. They said they qualify for Medicaid benefits, but the state hasn't determined their eligibility. The Medicaid Act requires a state to make a determination within 90 days or provide interim benefits, according to the complaint.

Illinois is a defendant in several lawsuits relating to its failure to timely process and pay Medicaid claims. The state has been cash-strapped and for many of the past several years has not had a state budget. Medicaid funding has been low on its priority list, according to a June 2017 federal court order requiring Illinois to pay \$586 million per month to Medicaid providers for unpaid vouchers.

Problem 'Not Getting Resolved' Chadwick O. Bogar, the founder and chief executive officer of sb2 Inc., a national law firm based in Harrisburg, Pa., told Bloomberg Law the case is similar to one in which federal Judge Elaine E. Bucklo said in September 2017 that Illinois's Department of Healthcare and Family Services must comply with federal timeliness standards when

processing Medicaid applications and providing Medicaid benefits.

The U.S. District Court for the Northern District of Illinois in the earlier case ordered the state's Medicaid agency to process applications and pay benefits with reasonable promptness, as required by the federal Medicaid law. That requirement is violated when an application has been pending for more than 90 days or a claim goes unpaid for more than 12 months, the court said.

The court also said the plaintiffs' claims weren't barred by the 11th Amendment. The 11th Amendment bars citizens from suing their states for monetary damages. The Constitution, however, doesn't preclude plaintiffs from seeking prospective injunctive relief to stop violations of federal law, even if compliance would require the state to spend money, the court said.

Bogar's firm represented the plaintiffs in both cases. He said the latest lawsuit, brought by a different skilled nursing services provider on behalf of its patients, underscores that Illinois's Medicaid backlog remains a difficulty for providers.

It's "a problem that isn't getting resolved," Bogar said.

Katie Z. Van Lake, of sb2 Inc., Harrisburg, Pa., represents the plaintiffs.

The case is *Alden Mgmt. Servs., Inc. v. Norwood*, N.D. Ill., No. 18-238, filed 1/12/18.

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