

Lewis v. Grinker

United States District Court for the Eastern District of New York

March 14, 1991, Decided

CV-79-1740

Reporter: 1991 U.S. Dist. LEXIS 20754

LYDIA LEWIS, etc., et alia, Plaintiff, v. WILLIAM GRINKER, etc., et alia, Defendants.

Subsequent History: [*1] As Corrected April 1, 1991.

Judges: Sifton

Opinion by: CHARLES P. SIFTON

Opinion

CORRECTED ORDER

On July 14, 1986, this Court issued a Memorandum and order granting summary judgment to plaintiffs and plaintiffs-intervenors permanently enjoining alien restrictions in the Medicaid program on the ground that the 1973 regulation of the Secretary of Health and Human Services (the "federal defendant") establishing restrictions on alien eligibility for Medicaid was not authorized by the Medicaid statute. However, prior to entry of final judgment, Congress passed the Omnibus Reconciliation Act of 1986 ("OBRA") which amended the Medicaid statute. By reason of that act, prospective relief became inappropriate.

Plaintiffs who were sued by the health care providers for unpaid medical bills remain, however, entitled to retroactive relief for medical expenses incurred prior to OBRA-86.

At this Court's urging, plaintiffs negotiated a proposed order with the various municipal defendants who would be affected by this issue. All but two defendants consented to the order, which was then submitted to this Court. Subsequently, this Court wrote to each defendant in this case requesting that it notify the Court if it had any objections [*2] to the proposed order. None of the defendants raised any objection to the proposed order; and, according, it is hereby

ORDERED that

1. Through January 1, 1993, the commissioners of the Department of Social Services for New York City, Oneida County, and Suffolk County (hereinafter "local defendant commissioners") shall accept and adjudicate Medicaid applications, or shall readjudicate Medicaid applications

(if applicable and if such applications are able to be located) for aliens who have uncollected bills for Medicaid reimbursable services rendered between February 6, 1979, and August 1, 1986, provided that each application is submitted with evidence of a demand for payment of the past bill or other evidence of an anticipated or pending court action for collection.

2. The adjudications under paragraph 1 shall comply with regulatory requirements for adjudicating Medicaid applications, including timely processing, gathering of evidence, and notice of decision, provided that the readjudications shall require such proof as can reasonably be provided given the passage of time since the bill was incurred. The state defendant commissioner shall issue reasonable standards of proof for the [*3] claims set forth in paragraph 1 of this order and provide those standards to the local defendant commissioners and counsel for the plaintiff class within 45 days after the notification of the entry of this order.

3. The state defendant commissioner shall notify all Medicaid providers within the jurisdictions of the local defendant commissioners of the provisions of this order within 60 days after notice of entry of the order and shall instruct all such providers that prior to commencing or continuing collection efforts against any alien for collection of bills for the period February 6, 1979, through August 1, 1986, the provider must notify the alien of her right to apply for Medicaid pursuant to paragraph 1 of this order.

4. Prior to commencing or continuing collection efforts against any alien for collection of bills for the period February 6, 1979, through August 1, 1986, the New York City Health and Hospital Corporation must notify the alien of her right to apply for Medicaid pursuant to paragraph 1 of this order. The New York City Health and Hospital Corporation shall instruct all its collection agents and attorneys of their obligation to comply with this provision.

5. Within [*4] thirty days after receipt of the state defendant commissioner's reasonable standards instructions as set forth in paragraph 2 of this order, the local defendant commissioners shall draft written appropriate instructional material to their MAP (Medical Assistance Program) staff for the implementation of this Order and shall forward copies of such drafts to plaintiffs'

counsel. Plaintiffs' counsel shall have ten days to comment on the drafts. The local defendant commissioners shall provide draft instructions to the state defendant commissioner within twenty days after receiving plaintiffs' comments. The state defendant commissioner shall have thirty days to review and approve the drafts. The local defendant commissioners shall issue final instructional material within thirty days of receiving approval from the state defendant commissioner and shall provide a copy of such final instructions to plaintiffs' counsel.

6. Every quarter (three months) for the first year following entry of this Order and every six months thereafter, through and including final resolution of all Medicaid applications made pursuant to paragraph 1 of this order, the local defendant commissioners shall send a report [*5] to plaintiffs' counsel setting forth the number of persons who have filed applications pursuant to paragraph 1, the

number granted, the number denied, and the number pending.

7. This Court shall retain continuing jurisdiction over this action.

The Clerk is directed to mail a copy of the within to all parties.

SO ORDERED.

Dated: Brooklyn, New York

March 14, 1991

Charles P. Sifton

United States District Judge