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HEALTHCARE ADVOCACY GROUP
HEALTH LAW ADVOCATES
CHALLENGES LAW EXCLUDING
LEGAL IMMIGRANTS FROM HEALTHCARE

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BOSTON, MA -- FEBRUARY 25, 2010 – A state law excluding tens of thousands of legal immigrants from health coverage should be struck down, according to a lawsuit filed today by several immigrants with the assistance of Health Law Advocates (HLA), a Boston-based public interest law firm serving consumers statewide. The law, passed in 2009, excludes certain legal immigrants in Massachusetts from the Commonwealth Care health insurance program.

Massachusetts committed to universal healthcare for the Commonwealth's residents in 2006 when it passed its landmark healthcare reform. In 2009, however, a new state law excluded certain immigrants – *legal* immigrants – from the Commonwealth Care program. Twenty-six thousand people lost their existing health coverage, and to date, another 8,000 seeking coverage are now left uninsured.

“These are people who have a right to be here,” said HLA Executive Director Matt Selig. “They pay the same taxes as we do, they send their kids to the same schools, they sit next to us at work, they fill out the same forms to get a driver’s license. They’re required by law to sign up for health insurance, just like any other Massachusetts resident. But they can’t vote – so in a budget crisis, they’re the first ones to suffer.”

The plaintiffs are asking the State’s highest court to strike down the law as a violation of the Equal Protection Clause of the Massachusetts and federal constitutions. Northeastern Law Professor Wendy Parmet, who is helping to represent the plaintiffs, says equality is what the case is all about.

“The United States Supreme Court has made it clear that states have no business discriminating against legal immigrants, for essentially the same reasons states can’t discriminate against people on the basis of race,” said Parmet. “Both the Massachusetts and federal constitutions are designed to protect the minority members of our society who can’t speak out for themselves. The Legislature enacted a law that on its face calls for separate and unequal treatment. That’s not something the Constitution allows.”

In the 2009 budget, healthcare funding for the target immigrants was slashed from \$130 million to \$40 million. As a result, some 26,000 low and moderate-income Massachusetts residents lost their Commonwealth Care health coverage

and were placed on a hastily constructed “Bridge” program, which is less comprehensive and much less affordable for immigrants. Further, since that program is open only to residents who were on Commonwealth Care as of July 2009, so far 8,000 more residents have been denied insurance coverage entirely, solely because they are immigrants.

The impact of the cuts has been serious and widespread. Many Massachusetts residents on the Bridge program have been forced to leave the doctors they have seen for years, and have been put on waiting lists for a covered doctor to start accepting new patients. Residents who aren’t on the Bridge program are foregoing needed care entirely, or facing medical bills they are unable to pay.

Defenders of the new law suggest that administrators are doing the best they can with a bad budget, and that the real problem is a federal government that refuses to fund health care for immigrants. The legal immigrants who lost health care in 2009 have been ineligible for federal health care subsidies since 1996. But to HLA Executive Director Selig, that excuse misses the point.

“Commonwealth Care is a Massachusetts program designed to be available to lower-income residents with no other way to access health insurance,” Mr. Selig said. “The federal government never said Massachusetts had to create this program and never said immigrants must be excluded from it. Commonwealth Care is an excellent program, and the policy to relegate thousands of immigrants to a separate, second-tier plan and exclude some immigrants from insurance coverage entirely, is a terrible stain on the program and should not stand.”

HLA has taken the unusual step of filing the case directly with a single justice of the Supreme Judicial Court, arguing that the case’s urgency and broad impact mandate immediate review of the legal questions involved. If the single justice agrees, and the State cooperates with the plaintiffs’ request for a speedy hearing, the case will be scheduled for argument before the full bench later this year.

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Health Law Advocates (HLA) is a non-profit, public interest law firm that provides pro bono legal services for low-income Massachusetts residents who have been denied access to health care. Founded in 1996, HLA is the only non-profit law firm in Massachusetts dedicated exclusively to health care access. In addition to providing legal representation for individuals and groups in class-wide legal action, HLA advocates for policy reforms to improve the health care system to benefit consumers. For more information about HLA, log on at www.healthlawadvocates.org.