

The HLA Docket

The Quarterly E-newsletter of Health Law Advocates: Spring 2011

health law advocates
Lawyers Fighting for Health Care Justice

HLA

Message from the Executive Director

May 2011

Dear Friends of HLA:

I'm very pleased to share this second issue of HLA's refashioned e-newsletter *The Docket*. The past few months have been very productive and we are delighted to update you on some of the highlights.

HLA is known for legal advocacy that improves access to health care for large groups of vulnerable consumers. On Friday, May 6, HLA achieved an exciting, landmark legal victory on behalf of tens of thousands of low-income legal immigrants denied equal access to health care. In a class action case initiated by HLA (*Finch v. Connector Authority*), the Supreme Judicial Court of Massachusetts issued a ruling asserting that a State policy barring legal immigrants from the State's Commonwealth Care public insurance program is subject to same heightened level of judicial scrutiny as policies discriminating on the basis of race and gender. You can read more about the case below, including the next step we are taking in court to enable the 40,000 legal immigrants we represent to enroll in Commonwealth Care.

HLA also has a proven track record of successfully representing each year hundreds of individual low-income clients denied access to health care and presenting informative legal trainings and other forums. In this newsletter, you can read a profile of S.B., a recent HLA client who courageously fought a brain tumor while HLA attorneys battled for insurance coverage for her treatment. You can also read about our well-attended March 25 legal training entitled National Health Care Reform: *We Have Lift Off!* and our upcoming June 16 Law and Policy Forum event featuring Dr. Ralph de la Torre, Chairman and CEO of Steward Health Care System, leading a discussion on *Affordable Care Organizations: A New Model for Delivering Health Care Services*."

We are also very proud to include a profile of a distinguished HLA Board member, Paula Gold, who is widely recognized as one of the Commonwealth's most extraordinary and accomplished consumer advocates.

And, of course, don't forget to mark your calendars for HLA Annual Benefit Breakfast on November 9th!

Best regards,

Matt Selig

Executive Director

Supreme Judicial Court Rules on Immigrant Healthcare Suit

In a long awaited opinion delivered on May 6, the Massachusetts Supreme Judicial Court ruled in a class action lawsuit brought by HLA that the State's exclusion of thousands of legal immigrants from state-subsidized health coverage "likely violates its equal protection obligations" under the law. The court said, "State laws that discriminate against legal immigrants in the distribution of economic benefits are subject to strict scrutiny," a stringent standard of judicial review.

"The court said you have singled out this protected group, so you have to show us you had a very, very good reason for doing that, and the means by which you did that had the least impact possible on that protected group," commented Matt Selig, HLA's Executive Director after reviewing the decision.

In 2009, the Massachusetts Legislature cut health care coverage for about 26,000 legal immigrants after eliminating \$130-million in funding to help balance the state's budget. In February 2010, HLA initiated a lawsuit on behalf of the immigrants affected by these cuts. At the annual HLA Benefit Breakfast that November, HLA founder and legal advisor Steve Rosenfeld made a moving appeal for financial support for this legal action that resulted in nearly \$12,000 in contributions.

Attorneys **Tom Sobol** and **Lauren Barnes** of the law firm Hagens Berman Sobol Shapiro LLP and Attorney **Jack Cushman** are generously serving as co-counsel in this immigrant rights case on a pro bono basis with HLA. HLA Board Members **Wendy Parmet** and **Steve Rosenfeld** and HLA's Litigation Director **Lorianne Sainsbury-Wong** are leading HLA's efforts on the litigation team.

In her May 7 report for the Boston Globe, staff writer Kay Lazar highlighted the tremendous consequences for those affected by the 2009 law. Lazar described the struggles of Samuel Goncalves, 23, a Brazilian immigrant who was midway through intensive chemotherapy, radiation, and bone marrow transplants to treat a rare form of lung cancer when the State terminated him from the Commonwealth Care program. Goncalves is a member of HLA's class action lawsuit and you can learn more about his struggles [here](#).

The May 6 SJC ruling did not throw out the 2009 state law that barred the legal immigrants from the Commonwealth Care program and did not order the State to reinstate full coverage for them, but it paves the way for legal action by HLA to achieve these goals. On May 23, HLA filed a motion in the SJC asking the Court to declare the anti-immigrant law unconstitutional. The Court has scheduled a June 9 hearing to determine next steps in the case.

National Health Care Reform

On the morning of Friday, March 25, Health Law Advocates presented a legal training with the timely title National Health Care Reform:

We have Lift Off! at the Boston offices of McDermott Will & Emery LLP. The event helped mark the one year anniversary of President Barack Obama signing the Affordable Care Act into law. More than 40 attendees listened to a roster of distinguished health care law and policy experts discuss the past, present and future implementation of the Affordable Care Act (ACA) and its potential impacts on Massachusetts consumers.



Affordable Care Act Training Workshop

Presenters at the four-hour session included **HLA's Litigation Director Lorianne Sainsbury-Wong** and **Staff Attorney Alyssa Yenikomshian**, **Community Catalyst's Jessica Curtis**, **Health Care For All's Brian Rosman** and **Foley Hoag's Tom Barker**. The event concluded with a lively roundtable discussion of key players in health care reform implementation in Massachusetts: **Christie Hager (HHS)**, **Audrey Morse Gasteier (Div. of Health Care Finance and Policy)**, **Kaitlyn Kenney (Connector Authority)**, **Alison Kirchgasser (EOHHS)**, **Deirdre Savage (BCBS)** and **Aimee Golbitz (Partners)**. **John McDonough, Director of the Center for Public Health Leadership at Harvard's School of Public Health**, moderated.

This training was made possible with support from McDermott Will & Emery LLP and Proskauer Rose LLP.

For information about future HLA training sessions please call 617.338.5241, or visit our website [here](#).

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Save the Date: 2011 Annual Benefit Breakfast

Health Law Advocates' 16th Annual Benefit Breakfast will be held **Wednesday, November 9, 2011 at the Sheraton Boston Hotel**.

7:00-8:00am Networking
8:00-9:30am Program

For more information about HLA's Benefit Breakfast, or to find out about becoming an event sponsor, please [email](#) or call Martha Royston at 617.275.2881.



2010 HLA Breakfast

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Client Profile: S.B. and Her Struggle with a Brain Tumor

HLA attorneys **Alyssa Yenikomshian** and **Sam Leadholm** recently represented S.B., a single 47-year-old woman from a Boston suburb. S.B. was working for a major airline when she was diagnosed with a brain tumor in 1997. She kept working until 2004, when she had to go out on disability as the result of intensive chemotherapy treatment. Her income now is just \$22,000 per year which includes long-term disability benefits, Social Security Disability insurance benefits, and approximately \$80 per week from babysitting.

Fortunately, S.B. was able to stay on her airlines' health plan after she stopped working. S.B. became eligible for Medicare in 2006, but declined enrollment because her other health plan was providing good coverage. In 2010, S.B.'s health plan, informed her that they were retracting \$35,000 in payments to her medical providers because she should have enrolled in Medicare which would have paid her medical bills. As a result, S.B. started receiving huge bills from the providers whose insurance payments were retracted.

HLA represented S.B. in the dispute with her health plan and employer. HLA submitted a joint appeal/demand letter to S.B.'s employer and health plan alleging violations of the Medicare Secondary Payer laws and provisions of the Employee Retirement Income Security Act. As a result of HLA's advocacy, S.B.'s employer instructed the health plan to reverse its retraction of payments in entirety, relieving S.B.'s of more than \$35,000 in medical debt.

Board Profile: Paula Gold

Paula Gold joined the HLA Board in March of 2009. "I had known about HLA's good work for some time and when Barbara Anthony (former HLA executive director) invited me to join the Board, I was honored to accept her invitation," she relates. "My background in consumer issues and issues that affect low-income people provided a natural connection to HLA's mission."



Paula Gold

Attorney Gold has held several positions in Massachusetts Government. She was the Secretary of Consumer Affairs and Business Regulation, a cabinet position in the Administration of Governor Michael S. Dukakis, now a fellow member of the HLA Board. As Secretary she was responsible for overseeing seven state agencies, including the Banking Department, Insurance Department, and the Public Utilities Commission. She has also served as an Assistant Attorney General and Chief of the Consumer Protection Division, as well as Chief of the Public Protection Bureau in the Office of Attorney General Frank Bellotti. Prior to that, she was Commissioner of the Department of Public Utilities.

Attorney Gold sees the need for HLA's services growing even with the implementation of the Affordable Care Act. "I know from personal experience in dealing with my mother's health issues that navigating the health system can be hugely difficult. People can feel totally lost dealing with these issues."

Before her government service, Attorney Gold was a Litigation Specialist with the Massachusetts Law Reform Institute and a Managing Attorney with the Boston Legal Assistance Project. Attorney Gold is a graduate of Boston University and

Boston College Law School. She has taught courses at Boston College Law School and Harvard Law School. She is a Director of the Conservation Law Foundation, Health Law Advocates, and the Ford Hall Forum.

Paula Gold is currently Chief Regulatory Counsel for Plymouth Rock Assurance Corporation. She has served in a number of different positions at Plymouth Rock, including General Counsel. Prior to that, Attorney Gold was Senior Vice President of New England Power Service Company.

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HLA's Legal Network Luncheon Series

Health Law Advocates and the Rappaport Center for Law and Public Service Present:

HLA's Law and Policy Forum Brown Bag Luncheon Series

Mark your calendars for an upcoming event in HLA's Brown Bag Luncheon Series!

Thursday, June 16, 2011
Dr. Ralph de la Torre
Chairman and CEO, Steward Health Care System



Dr. Ralph de la Torre

Dr. de la Torre will lead a discussion on:

"Affordable Care Organizations: A New Model for Delivering Health Care Services"

12:30pm - 2:00pm
Suffolk University Law School
120 Tremont St
Boston, MA 02108



This event is "Brown Bag" style so please bring your own lunch. Snacks and drinks will be provided.

We hope to see you there! Reserve your spot today! Space is limited and RSVP is required.

[Email](#) or call Martha Royston at 617.275.2881 to reserve a spot.

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