

Media Release

Court Ruling Restores Basic Health Coverage to Immigrants

Seattle, WA – Immigrants who were disenrolled in March from the state’s Basic Health program got a reprieve yesterday when Judge James Robart of the Federal District Court in Seattle ordered the Washington State Health Care Authority to let them re-enroll in the program. Robart had earlier issued a preliminary injunction, ruling that the disenrollments based on the immigration statuses of people lawfully present in the United States likely violated their constitutional Equal Protection rights. He also held that the state notices of disenrollment were inadequate and likely violated the recipients’ Due Process rights. About 11,000 people are affected by Judge Robart’s rulings.

“This is an important ruling that promotes fairness and equality in health care,” said Rachael DeCruz, at Washington Community Action Network.

The plaintiffs and many others have relied on their Basic Health coverage for years, expecting that coverage would continue in the future. When they were suddenly disenrolled in March, after paying their premiums, they had health needs that were unmet and many could not afford other insurance. Basic Health, a state program offering affordable coverage since 1987, is the only option for many Washingtonians who are self-employed or cannot access employer-sponsored insurance.

“We are very pleased with the court’s ruling, which restores health coverage to many deserving Washington residents who lost it March 1st,” said Blake Marks-Dias, a Riddell Williams attorney who argued the case on behalf of the plaintiffs. “Because of these terminations, plaintiffs delayed getting health care – some for serious medical conditions. Many had no other way of getting health insurance that they could afford,” said Janet Varon of Northwest Health Law Advocates, another lawyer for the plaintiffs.

The equal protection ruling requires the Health Care Authority to restore coverage immediately for an estimated 1,580 lawfully present immigrants, provided that they pay their premiums. In his ruling, Judge Robart said that the state’s decision to terminate their benefits is subject to “strict scrutiny,” a stringent standard of judicial review. The plaintiffs are primarily people who are considered Legal Permanent Residents, but have not yet lived in the United States for 5 years. Until March, the state included these people in Basic Health along with other immigrants and citizens. The change excluded some immigrants but not others. Among those excluded were these lawfully present immigrants. Under the ruling, the state must offer to re-enroll them in Basic Health.

“We are happy to see people’s Basic Health restored. Without access to coverage, people are more likely to go without preventive health care and use expensive emergency room services, resulting in higher costs for everyone. This decision is good for the families who can now get health care, and it’s a win for our economy and every insurance policy holder in the state,” said Molly Firth, Chair of Friends of Basic Health, a coalition supporting the program.

The due process ruling requires the Health Care Authority to re-enroll other immigrants whose status is not known, and give them sufficient notice and an opportunity to show whether they are eligible. When the decision was made to disenroll these members, the disenrollments were done very hurriedly, with notices sent to nearly 17,000 people in a 5-hour time period the same day the legislature passed the new budget. That was done to ensure that the enrollees’ coverage would end by March 1, even though they had already paid their March premiums. The state disenrolled members without having access to information about whether they were actually still eligible for coverage. The Basic Health termination notices did not describe the new eligibility criteria or give the members complete information about how to show continued eligibility. The court’s ruling provides a full opportunity for these immigrants to re-enroll in Basic Health while the Health Care Authority informs them of the eligibility criteria, gives them a chance to respond, and provides sufficient notice to those who are then terminated.

Washington State received federal matching funds for part of the Basic Health population in January. In mid-February, the Legislature decided, under budgetary pressures, to cut off funding for Basic Health coverage for most of the remaining non-federally-funded population, largely consisting of immigrants.

The federal funds support the Basic Health program as a bridge to health coverage expansions that will take place in 2014 under the Affordable Care Act. In 2014, federal funds will almost entirely replace state funds to insure this population either on Medicaid, a Basic Health-type program, or subsidized coverage through the Health Insurance Exchange.

The case is called *Unthaksinkun v. Porter*. Rattiya Unthaksinkun, Khaddouj Atif, Susan Ahmadi, and S.J. are the plaintiffs. They are represented by Northwest Health Law Advocates and the Riddell Williams law firm.