

Inside CMS

January 25, 2007

SOME LIS PATIENTS GRANTED CLASS ACTION STATUS; PART D SUIT PROCEEDS

SECTION: Vol. 10 No. 2

LENGTH: 309 words

Low-income dual-eligible patients who were not automatically enrolled in a Part D plan, but should have been, or were improperly listed as belonging to more than one plan were granted class action status Friday (Jan. 12) by a California District Court Judge. Also listed as part of the class were beneficiaries whose plans had not been informed by CMS of the patients' enrollment or LIS status.

Only patients who filed a claim with CMS, a plan or a state agency and complained about enrollment difficulties will be considered a member of the class, according to U.S. District Court Judge Thelton Henderson

The ruling is a "crucial step" forward and will allow the suit, brought on behalf of many of the 6.4 million low-income Medicare beneficiaries by the National Senior Citizens Law Center (NSCLC) and the **Center for Medicare Advocacy (CMA)**, to continue.

"The federal government is taking its time to address the difficulties experienced by dual eligibles in accessing prescription medication," said Jeanne Finberg, NSCLC's lead attorney in the case.

During the confusion of the first Part D enrollment period, LIS patients experienced a number of problems with auto enrollment, either due to problems at CMS or with the plans themselves. Advocates for the LIS patients suggest the problems continue.

"Meanwhile, real people are unable to get life-saving medicine or are being charged unfairly for services that the government must provide free of charge under Medicare Part D. It's unfortunate that we've been forced to litigate in order to get CMS to do its job," said Finberg.

Advocates said in a written release that CMS attorneys argued the case should be dismissed because NSCLC and CMA failed to specifically name the policies or procedures that led to the LIS enrollment glitches.

CMS officials familiar with the lawsuit could not be reached for comment.