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GOVERNMENT SUED OVER FAILURE TO IMPLEMENT MEDICARE DRUG LAW'S PROTECTIONS FOR LOW-INCOME PEOPLE: CHALLENGE BROUGHT ON BEHALF OF MORE THAN 6 MILLION RECIPIENTS

A class action complaint was filed today in the U.S. Federal District Court, Northern District of California to force the Secretary of Health and Human Services to ensure that the 6.4 million seniors and disabled individuals across the nation who receive both Medicare and Medicaid (“dual eligible” individuals) have effective, timely access to prescription medication under the new Medicare Part D prescription drug program.

Dual eligibles are an extremely vulnerable group. They are poorer and sicker than other Medicare beneficiaries. Almost 40 percent of them have mental or cognitive impairments, 25% live in nursing homes or other long-term care facilities, most have incomes well below the poverty level, and all are either elderly or disabled.

Congress specifically ordered HHS to develop a Medicare prescription drug program that would enroll all dual eligibles into Part D prescription drug plans; provide them with a subsidy to defray Part D cost-sharing expenses; and allow dual eligibles to switch plans at any time. The complaint demands that HHS immediately design and implement a system that will meet these Congressional mandates.

Dual eligibles were supposed to have a seamless transition from Medicaid drug coverage to Medicare drug coverage when the new Medicare program went into effect on January 1, 2006. “Because HHS has failed to effectively implement this provision of the law, there are widespread problems, confusion and lack of access to needed medication for dual eligibles throughout the country,” said Jeanne Finberg, attorney with the National Senior Citizens Law Center. “These are not ‘glitches,’ as described by HHS, but serious, on-going problems affecting people’s health.”

“Our clients are poor, frail, and disabled. They cannot afford to pay for their medicines or to go without them, as they have been forced to do,” explains Vicki Gottlich, senior policy attorney for the Center for Medicare Advocacy, Inc.

Three individuals and two organizations brought the case as representatives of the affected class. Typical of the class is Josephine Guin, a 76-year-old Florida resident and dual eligible individual who has had monthly drug plan premiums deducted from her social security check, even though she should not pay a premium according to the Part D law. She recently had to forego getting medicine because she was asked to pay the unsubsidized co-payment, which she could not afford to pay. For a full copy of the complaint and a description of the individuals named, visit www.nslc.org or www.medicareadvocacy.org.

The plaintiffs are represented by the National Senior Citizens Law Center and the Center for Medicare Advocacy. For additional information see www.nslc.org or www.medicareadvocacy.org.

Contacts: Jeanne Finberg, National Senior Citizens Law Center, (510) 663-1055 x305; jfinberg@nslc.org or Vicki Gottlich, Center for Medicare Advocacy, Inc., (202) 216-0028; vgottlich@medicareadvocacy.org.