

 HEALTHCARE BRIEF

DHH Settles Class Action Suit Pertaining to Reduction of Service Hours for Medicaid LT-PCS Program

The Louisiana Department of Health and Hospitals (“DHH”) has settled a class action lawsuit filed on behalf of Medicaid beneficiaries receiving Long Term Personal Care Services (“LT-PCS”). The class action is pending in the U.S. District Court, Middle District of Louisiana. The presiding federal judge has issued preliminary approval of the settlement. A final approval hearing is scheduled for February 17, 2012.

The class action alleged that the reduction of maximum weekly service hours available to Medicaid beneficiaries eligible for LT-PCS services violated the Americans with Disabilities Act and sought declaratory and injunctive relief to prohibit the implementation of the reduction to service hours. The class action alleged that the LT-PCS recipients were at risk of being forced to enter a nursing home as a result of the cuts to service hours, which is exactly what the LT-PCS program was designed to prevent.

The court defined the class of plaintiffs as follows:

“Louisiana residents with disabilities who have been receiving Medicaid-funded services through the LT-PCS program; who desire to reside in the community instead of a nursing facility; who require more than 32 hours of Medicaid-funded personal care services per week in order to avoid entering a nursing facility, and who do not have available (including through family supports, shared living arrangements, or enrollment in the ADHC [Adult Day Health Care] waiver) other means of receiving personal care services.”

While the class action was pending, DHH allowed LT-PCS recipients who were receiving the maximum number of weekly service hours to request expedited access to the Community Choice Waiver Program. The Community Choice Waiver Program provides a variety of services, including personal care services, to assist beneficiaries to avoid institutional placement and to remain in their homes and communities.

As a part of the settlement, DHH has agreed to extend this option to additional class members currently approved for less than the maximum 32 hours per week of services, but who were receiving more than 32 hours per week at the time the reduction in hours became effective. DHH will offer Community Choice Waiver Program slots to class members who apply for the program, if the class members can show that, without the additional services, they would be at serious risk for institutional placement. DHH will also request approval from the federal government for an additional 200 Community Choice waiver slots. Any slots not filled by class members will be added to the pool of slots made available to those who are on the waiting list for waiver services.



DEBORAH J. JUNEAU
Partner
225.389.3703
deborah.juneau@keanmiller.com