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November 8, 2018

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Illinois Medicaid Finally to Provide Life-Saving Medication to Cure Hepatitis C

Lawyers successfully negotiate with the State of Illinois to lift coverage restrictions for the cure

Chicago, Ill.—On Thursday, Nov. 1, after receiving a formal threat of litigation, officials at the Illinois Department of Health and Family Services (HFS) negotiated with lawyers representing affected individuals to end the department’s policy of rationing coverage of life-saving drugs to cure hepatitis C for Medicaid participants.

On Oct. 11, 2018, attorneys from Legal Council for Health Justice, in conjunction with Jenner & Block, LLP and the Center for Health Law and Policy Innovation of Harvard Law School, sent a formal demand letter to Illinois officials on behalf of Illinois Medicaid participants. The demand letter advised that Illinois would face a federal class action lawsuit unless the state immediately removed unlawful restrictions on access to the hepatitis C cure. Attorneys for the participants met with the state to negotiate an end to these restrictions, and today, HFS officials issued a policy revoking these categorical exclusions, effective immediately.

“This new policy is a long awaited, much needed and monumental change to the previous policy restricting DAA use in Illinois Medicaid patients,” stated Dr. Andrew Aronsohn, an Associate Professor of Medicine and gastroenterologist with the University of Chicago Medical Center. “The new policy will drastically improve access to treatment and will offer cure to nearly all patients currently living with chronic HCV. These changes will not only reduce long term costs for the state but will save lives.”

The new policy makes a recognized hepatitis C cure—Direct Acting Antivirals, or DAAs—accessible for thousands of Illinoisans, many of whom were previously denied treatment until they reached end-stage disease.

“The previous Criteria put participants at increased risk of illness and death, defied medical consensus about how to treat patients with hepatitis C, and impeded eradication of a deadly epidemic,” said Meghan Carter, staff attorney at Legal Council. “We’re glad we were able to come together with the State to make sure these cures are available to everyone in the Illinois Medicaid program. Access to these cures certainly benefits everyone.”

Hepatitis C is a communicable disease that causes chronic inflammation throughout the body and can lead to serious liver damage, liver cancer and death. The opioid crisis has caused a dramatic increase in the incidence of hepatitis C nationally and locally. DAAs can cure the hepatitis C virus (HCV) in as little as eight to twelve weeks, with few potential side effects. Prior to this policy change, the Illinois Medicaid program had one of the most restrictive policies for approval of DAAs, requiring onerous testing and medical evidence of advanced liver disease before approving coverage of the treatment.

“Illinois has taken an important step here,” said Kevin Costello, Director of Litigation at the Center for Health Law and Policy Innovation of Harvard Law School. “But enforcement remains key to make sure that Medicaid law is made meaningful not just in statute books, but for real people living with this terrible disease. This change is not only the right thing to do from a public health and legal point of view, but it also has been proven that this policy will be cost-effective for the state in the long run. And it goes without saying that the real potential of this cure is the eradication of HCV altogether, a goal that is furthered by early treatment of Medicaid beneficiaries that prevents further transmission of the virus impossible.”

Attorneys who handled the matter include Carrie Chapman, Ruth Edwards and Meghan Carter from Legal Council for Health Justice, Michael Brody, D. Matthew Feldhaus, Alexander Bandza and Lindsey Lusk from Jenner & Block, LLP, and

Kevin Costello from Center for Health Law and Policy Innovation of Harvard Law School. This policy change comes after years of strategic advocacy from leading healthcare activists, including Legal Council, AIDS Foundation of Chicago, and others.

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Legal Council for Health Justice uses the power of the law to secure dignity, opportunity, and well-being for people facing barriers due to illness and disability. All programs partner with health and hospital systems to train and support the care provider network, provide direct representation to referred patients, and conduct systemic advocacy to promote health equity among populations facing chronic, disabling, and stigmatizing health and social conditions. www.legalcouncil.org

The Center for Health Law and Policy Innovation of Harvard Law School (CHLPI) advocates for legal, regulatory, and policy reforms to improve the health of underserved populations, with a focus on the needs of low-income people living with chronic illnesses and disabilities. CHLPI works with consumers, advocates, community-based organizations, health and social services professionals, food providers and producers, government officials, and others to expand access to high-quality healthcare and nutritious, affordable food; to reduce health disparities; to develop community advocacy capacity; and to promote more equitable and effective healthcare and food systems. CHLPI is a clinical teaching program of Harvard Law School and mentors students to become skilled, innovative, and thoughtful practitioners as well as leaders in health, public health, and food law and policy. <http://www.chlpi.org>