



1101 King Street, Suite 380, Alexandria, Virginia 22314 • Phone: 703.535.7850 • Fax: 703.535.7860 • Email: ancor@ancor.org • Web site <http://www.ancor.org>

Contact:

Suellen Galbraith
703-535-7850
sgalbraith@ancor.org

**ANCOR LITIGATION ALERT:
Update on *Sanchez v. Johnson*
Judge Rules Against Plaintiffs—Parents,
Consumers, and Providers Right to Sue**

Date: January 14, 2004

On January 13th, ANCOR member Ron Cohen, Executive Director of UCP of Los Angeles, Ventura and Santa Barbara Counties, notified ANCOR of Judge Wilken's January 5th decision in *Sanchez v. Johnson*. UCP of Los Angeles is one of several organizations (Plaintiffs) that brought the case before the U.S. District Court for the Northern District of California. The Judge did not rule on the merits of the case, but found in favor of the state Defendants' motion that Plaintiffs did not have the right under 42 U.S.C. Section 1983 to challenge the State of California's implementation of the *efficiency, economy, and quality of care* provision (42 U.S.C. Section 1396a(a) (30) (a) of Title XIX (Medicaid statute) by failing to fund adequately community care facilities for individuals with developmental disabilities.

ANCOR is very disappointed in the Judge's ruling on this important case brought on behalf of individuals with developmental disabilities, families, and providers in California that denies them the right to challenge violations of federal Medicaid law. ANCOR will provide members with information on any further developments in this case. (See below for more information on the background of the case.)

From Ron Cohen and other plaintiffs, the following release:

"The January 5th decision by Judge Wilken in *Sanchez v. Johnson* declaring that parents, consumers and providers of community services for persons with disabilities have no right to challenge violations of federal laws setting standards for programs funded with federal Medicaid funds has energized the disabilities community which is planning to appeal the decision.

Plaintiffs for persons with disabilities pointed out that two weeks ago another federal court in California reached the opposite conclusion on the exact same legal issue, upholding the right of parents and consumers to sue to prevent cuts in Medicaid payments to doctors by the state which could affect access to and quality of care. In the *Clayworth* case, Judge Levi issued an injunction stopping a 5 percent cut in payments by the state.

By contrast, the federal court in *Sanchez* said that no parent, consumer or provider could sue to challenge inadequate quality of care or access to care arising from insufficient Medicaid payments by the state to providers of community services for persons with disabilities. Both lawsuits involved the same provision of the Medicaid Act which requires that state payments be sufficient to ensure quality of services and access to care.

Plaintiffs vowed to go to the Ninth Circuit Court of Appeals to obtain the same rights as set out in the *Clayworth* case. Overwhelming evidence in the *Sanchez* case showed that the payment rates for services to persons with disabilities were not based on any cost analysis and resulted in high turnover

of care giving personnel, thereby gravely impairing service quality. Judge Wilken, however, did not consider that evidence or reach the merits of the case, saying instead that the plaintiffs have no right under federal law to bring a suit to enforce the federal law.

Federal law does not allow states to take federal money while cutting back Medicaid services to the point where they jeopardize the effectiveness of the services, advocates said. They urged state legislators to devote increased federal contributions for community based services to those services and not to take that money to pay for other programs. And they urged Congress to clarify the right to sue to make sure states spend their federal money in accordance with Medicaid requirements.”

Background

Plaintiffs, consisting of a class of individuals with developmental disabilities and several organizations, sued California state officials responsible for the administration of Medicaid programs for individuals with disabilities. Although other claims brought by Plaintiffs were dismissed, there was one remaining claim brought by Plaintiffs alleging that the state violated Title XIX of the Social Security Act, 42 U.S.C. Section 1396a(a) (30) (A), (Section 30(A)) by failing to fund adequately community services for individuals with developmental disabilities. Section 1396a(a) (30) (A) provides:

State plan for medical assistance must...provide such methods and procedures relating to the...payment for care and services under the plan...as may be necessary...to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.

On August 10, 2001, the State moved for partial judgment on the pleadings on Plaintiffs’ Section 30(A) claim—the issue being whether Plaintiffs could bring suit under 42 U.S.C. Section 1983. Section 1983 imposes liability on anyone who, under color of state law, deprives a person “of any rights, privileges, or immunities secured by the Constitution and laws.” The Court found that Plaintiffs could do so and issued an order on September 24, 2002, denying the Defendants’ motion for judgment (JOP Order).

Following the Court’s JOP Order, the Supreme Court decided *Gonzaga University v. Doe*, 536 U.S, 273 (2002), clarifying how to determine whether a statute confers an individual right enforceable under Section 1983. In *Sanchez*, Defendants moved for reconsideration of the JOP Order claiming that the decision in *Gonzaga* undermined the authorities relied on by the U.S. District Court for the Northern District Court in its September 24, 2002 JOP Order. Judge Wilken found that post-*Gonzaga*, Section 30(A) does not provide Medicaid recipients a private right enforceable under Section 1983. Since the Plaintiffs’ claim pursuant to 42 U.S.C. Section 1396a(a) (30) (A) were the only claims remaining after summary judgment motions, Judge Wilken ordered the termination of the *Sanchez* case in its entirety and issued a judgment in favor of the State of California Defendants.