

## **Suit filed against California by PAI and other groups for systemic failure to determine Medi-Cal disability eligibility within 90 days**

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SAN FRANCISCO, CALIF. (October 4, 2006) – Western Center on Law and Poverty (WCLP), Bay Area Legal Aid and Protection and Advocacy, Inc., filed a lawsuit today in San Francisco against officials of the California Department of Health Services and California Department of Social Services due to the State’s systematic failure to determine eligibility for Medi-Cal based on disability within the 90 days required by state law.

Addressing the issue, WCLP Attorney Kim Lewis said, “For years the State has consistently failed to determine eligibility for Medi-Cal benefits in a timely manner. By comparison, the DMV is a model of efficiency.”

“The extent of the non-compliance is staggering,” added Michelle Uzeta, an attorney with disability rights agency Protection and Advocacy. “In a sample of 2,188 Medi-Cal disability applications from 2005, not one had received an eligibility decision within 90 days.” The median amount of time taken to decide those applications was 226 days - nearly 2 ½ times the legal limit. At present, there is a backlog of approximately 10,000 to 12,000 applications that have been pending more than 90 days.

“This suit has been brought on behalf of people who are poor, disabled and in desperate need of medical attention,” said Bay Area Legal Aid attorney and health law specialist Mike Keys. “They cannot afford to pay for their medical care and yet California makes them wait several months, often more than six months, to learn if their Medi-Cal applications have been approved.”

The lawsuit alleges that one California resident applied for Medi-Cal in January of this year after being diagnosed with a tumor on her liver. Her doctors subsequently recommended that she receive chemotherapy but she could not afford to pay for the treatment. By the time the State approved her Medi-Cal application in June, her cancer had become inoperable and she died shortly thereafter.

Petitioner Ivana Zelaya was seriously injured in an automobile accident in August of 2005. She experienced brain hemorrhaging and a lacerated liver, was in a coma for three weeks and hospitalized for months. An application for Medi-Cal filed on her behalf immediately after the accident was not approved until 10 months later after intervention by legal counsel. While waiting for approval of her application, Ms. Zelaya was unable to obtain critical health care, including medically critical neurological tests and treatment for serious physical pain.

“When I came out of the coma I was so sick that I could not walk or talk,” said Zelaya. “I needed treatment and medical care but couldn’t get it while I was waiting for Medi-Cal. I didn’t have the money to pay and became severely depressed thinking that other people were willing to let me die because of money.”

Another petitioner had a similar experience, filing an application for Medi-Cal in April 2005 and not receiving an eligibility determination until February 2006. In that instance, the delay caused the petitioner to forego needed testing for cancerous nodules in her lungs, and to declare bankruptcy because of medical bills she had incurred while waiting for her Medi-Cal application to be processed.

The lawsuit will seek an order that requires State officials to comply with the requirement that Medi-Cal applications based on disability be processed within 90 days, and to implement procedures to address both the backlog and the emergent health care needs of individuals whose applications have been pending for more than 90 days.

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Western Center on Law & Poverty is a nonprofit poverty law organization dedicated to advancing and enforcing the rights of low-income Californians to the basic necessities of life by working statewide for systemic change. Founded in 1967 and based in Los Angeles, it is the state’s oldest and largest legal services support center.

Bay Area Legal Aid (BayLegal) is the federally funded legal aid program for the San Francisco Bay area. BayLegal provides legal advice to low-income San Francisco Bay area residents in the areas of health care access, housing, domestic relations/domestic violence, and public benefits.

Protection and Advocacy, Inc. is a private non-profit disability rights agency established under federal law in 1997 to protect, advocate for and advance the human, legal and service rights of Californians with disabilities. PAI works in partnership with people with disabilities, striving towards a society which values all people and supports their rights to dignity, freedom, choice and quality of life.