

For Immediate Release
Contact: Vanessa Barrington
vbarrington@justiceinaging.org
510-256-1200

Medi-Cal Recipients Sue California for Failing to Ensure Seniors and People with Disabilities Can Stay in Their Homes

July 6, 2017 – The State of California has failed to implement a federal law that requires Medi-Cal to implement eligibility rules intended to prevent one spouse from going broke while paying for at-home care for a spouse with a disability, according to a class action lawsuit filed today. *Kelley v. Kent* (LA. Super. Ct.).

When one spouse has chronic conditions requiring home-based care, the other spouse must balance the cost of that care against the couple's basic needs. The federal law allows a person to get needed home-based services in certain instances in which a couple has income or resources higher than the typical maximum limit to qualify for Medicaid. Though the federal rule has been in effect for three and a half years, California has failed to implement it, forcing many families to teeter on the brink of financial ruin in an effort to care for their loved ones at home. The case was filed in Los Angeles Superior Court today by Bet Tzedek, Justice in Aging, Disability Rights California, and Western Center on Law and Poverty with pro-bono partner McDermott Will & Emery.

The lead plaintiffs in the case, Patrick Kelley and Matthew Reed, both greatly need the care provided by Medi-Cal's home and community-based programs. Mr. Reed, a 62-year-old man who suffered a stroke, and has multiple sclerosis, Bell's Palsy, and vascular dementia, cannot perform basic activities of daily living, such as preparing food or using the bathroom unassisted. Mr. Reed needs constant supervision to live safely at home, but his wife must keep her job working nights to pay rent and meet the couple's basic needs. Mr. Kelley is a 67-year-old veteran, who has primary progressive multiple sclerosis. First diagnosed almost 15 years ago, the disease has progressed and Mr. Kelley now has spastic quadriplegia and can use only his left hand for simple motor tasks. He depends on assistance for all meals, bathing, grooming, toileting, and other essential

activities. His 75 year-old wife is unable to fully care for him by herself. The couple exhausted their savings paying for caregivers.

“The Reeds and Mr. Kelley and Ms. Rogers face tragic choices,” said Greg Jones of McDermott Will & Emery. “Impoverish themselves paying out-of-pocket for care, go without care and put their health further at risk, or go to a nursing home. The law is designed to protect against this dilemma, but unfortunately California isn’t following the law.”

“Advocates have been asking the state to make the law work for a long time,” added Claire Ramsey, an attorney at Justice in Aging. We are sorry we had to resort to filing a lawsuit just to get our clients the health benefits they need.”

“Our office often serves clients whose income or resource puts them just above standard Medi-Cal limits, but for whom private home care is completely unaffordable,” said Kim Selfon of Bet Tzedek, an L.A.-based non-profit that provides free legal counsel. “We hope this lawsuit helps Mr. Reed, Mr. Kelley, and all other couples in a similar situation.”

Plaintiffs seek to compel the state to implement the law back to January 1, 2014 and to notify individuals who were potentially eligible under spousal impoverishment protections of their rights.

“We think it is essential that individuals who could be helped by this law find out about it and receive the benefits of it,” said Cori Racela, senior attorney at Western Center on Law and Poverty.

The lawsuit also alleges that the State’s failure to implement the law violates anti-discrimination laws that protect people with disabilities.

“Forcing seniors with disabilities into nursing facilities to receive services flies in the face of the Supreme Court’s *Olmstead* decision and is a much more expensive way to provide long term care. Married individuals with disabilities should not have to choose between living with their spouse and receiving needed care,” explained Elizabeth Zirker, an attorney at Disability Rights California, a statewide organization representing people with disabilities.

Read the complaint at [Justice in Aging](#), [Bet Tzedek](#), [Western Center](#), and [Disability Rights California](#).

Justice in Aging is a national non-profit legal advocacy organization that fights senior poverty through law. Formerly the National Senior Citizens Law Center, since 1972 we've worked for access to affordable health care and economic security for older adults with limited resources, focusing especially on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency. Through targeted advocacy, litigation, and the trainings and resources we provide to local advocates, we ensure access to the social safety net programs that poor seniors depend on, including Medicare, Medicaid, Social Security, and Supplemental Security Income (SSI). For more information, visit our website at justiceinaging.org.

Founded in 1974, Bet Tzedek provides free comprehensive legal assistance and representation, volunteer and court based self-help services and legal education to more than 20,000 people each year regardless of race, religion, ethnicity, immigration status or gender identity. Our areas of practice include: aging with dignity, kids in need, economic justice, Holocaust survivor services, and Rapid Response. More information can be found at www.bettzedek.org

Disability Rights California is a non-profit organization mandated by federal law to protect the rights of people with disabilities. Check out our website (www.disabilityrightsca.org), Facebook and twitter @DisabilityCA

[Western Center on Law and Poverty](#) is an independent nonprofit law firm founded in 1967 as a joint legal clinic of the law schools of USC, UCLA and Loyola. We bring about system-wide change on behalf of low-income individuals and families through pivotal impact litigation; hard hitting advocacy; negotiations with state and local government; and support for local legal aid programs. Western Center's work reaches every county to lead the fight for justice in the state of California.

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