



PRESS RELEASE

09/30/2022

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Amicus Brief Filed in U.S. Supreme Court Case Emphasizes Harms to People with Disabilities

Without the right to bring private cause of action, safety net program recipients will be left without avenues to fair treatment and access to their benefits

WASHINGTON, DC – Six leading disability advocacy organizations, with the support of Kellogg Hansen, have filed a [“friend-of-the-court” brief](#) in the U.S. Supreme Court in support of the estate of Gorgi Talevski, who alleges that the Health and Hospital Corporation of Marion County, Indiana (HHC) abused and neglected him while in a nursing home. The amicus brief explains why it is important that individuals, particularly those with disabilities, have the ability to sue state and local governments when their civil rights are violated under Medicaid and other public programs. The case, *Health and Hospital Corporation of Marion County, Indiana v. Talevski*, is scheduled to be heard on November 8, 2022.

The amicus brief focuses on the importance of private suits under Medicaid and other federal statutes for people with disabilities, who have long faced pervasive discriminatory treatment within American society, citing among others the landmark *Olmstead v. L.C.* case. If providers of Medicaid services abuse or mistreat beneficiaries or take away or deny their benefits, private lawsuits are often the only way to hold government entities accountable and ensure people get the life-saving therapies and everyday living support services they need. Many of these lawsuits will no longer be possible if the Court rules in favor of HHC. Full access to Medicaid services and the right to enforce these services are crucial to achieving community integration for people with disabilities. The brief urges the Court to reaffirm the private right of action to enforce Medicaid guarantees and disability rights.

“This case is a large-scale assault on disability rights around the country,” said Peter Berns, CEO of The Arc of the United States. “Medicaid is the primary source of healthcare for people with intellectual or developmental disabilities, the vast majority of whom want to live with dignity in their homes and communities. Protecting their right to private action when such rights are violated would ensure they aren’t unnecessarily institutionalized and prevent the unraveling of antidiscrimination progress set forth by the ADA for over 30 years.”

“The Supreme Court has signaled that it may strike another blow against civil rights in this case,” said Ira Burnim, Legal Director of the Bazelon Center for Mental Health Law. “An expansive ruling could put at risk the ability of individuals to seek relief in federal court for violations of key civil rights statutes prohibiting discrimination based on sex, race, national origin, or disability.”

“Medicaid covers personal attendants and other in-home services and supports that disabled people need to live in the community and participate in society. Enforcement is a critical right,” said Claudia Center, Legal Director of Disability Rights Education and Defense Fund.

“Congress intended that people with disabilities have the right to enforce Medicaid, just as they do Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. The disability community has used this private right of action to enforce vital civil rights protections repeatedly,” said Maria Town, American Association of People with Disabilities President and CEO. “Any decision from the Supreme Court that does not recognize this right would go against Congress’ wishes, decades of legal precedent, and ultimately, put at serious risk the healthcare, community integration, and civil rights that people with disabilities have long fought to secure.”

In *Health and Hospital Corporation of Marion County, Indiana v. Talevski*, HHC is appealing a ruling by the Seventh Circuit Court of Appeals that Mr. Talevski and his family could sue to enforce his rights under the Nursing Home Reform Act provisions of Medicaid. For 50 years, the U.S. Supreme Court has recognized that people can sue if their rights are violated under safety net programs. The inability to pursue legal recourse will affect millions of people who rely on Medicaid, the Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), the Children’s Health Insurance Program (CHIP), Temporary Assistance to Needy Families (TANF), and more.

The amici are also concerned that a broad ruling in favor of HHC may undercut individuals’ rights to sue to enforce Title IX of the Education Amendments of 1972 (prohibiting discrimination based on sex), Title VI of the Civil Rights Act (prohibiting discrimination based on race, color, or national origin), and Section 504 of the Rehabilitation Act (prohibiting disability discrimination).

Major health organizations, legal experts, and scholars also support the right to private action to enforce Medicaid guarantees. Over twenty other amicus briefs have been submitted in support of the defendant, Gorgi Talevski, who is being represented by Ivanka Talevski in his death.

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About The Arc: The Arc advocates for and serves people with intellectual and developmental disabilities (IDD), including Down syndrome, autism, Fetal Alcohol Spectrum Disorders, cerebral palsy, and other diagnoses. The Arc has a network of 600+ chapters across the country promoting and protecting the human rights of people with IDD and actively supporting their full inclusion and participation in the community throughout their lifetimes and without regard to diagnosis. *Editor’s Note: The Arc is not an acronym; always refer to us as The Arc, not The ARC and never ARC. The Arc should be considered as a title or a phrase.*

About The Bazelon Center: Since 1972, the Judge David L. Bazelon Center for Mental Health Law has advocated for the civil rights, full inclusion and equality of adults and children with mental disabilities. We envision a society where Americans with mental illness or developmental disabilities live with

autonomy, dignity, and opportunity in welcoming communities, supported by law, policy, and practices that help them reach their full potential. The Bazelon Center accomplishes its goals through a unique combination of litigation, public policy advocacy, coalition building and leadership, public education, media outreach and technical assistance.

About The Disability Rights Education & Defense Fund: The Disability Rights Education & Defense Fund (DREDF) is a national, nonprofit law and policy center led by people with disabilities and dedicated to advancing and protecting the civil and human rights of disabled people. As a Parent Training and Information Center (PTI) funded by the US Department of Education, DREDF serves families of children with disabilities and disabled young adults in 33 California counties.

About The American Association of People with Disabilities: The American Association of People with Disabilities (AAPD) is a convener, connector, and catalyst for change, increasing the political and economic power of people with disabilities. As a national cross-disability rights organization, AAPD advocates for full civil rights for the over 61 million Americans with disabilities by promoting equal opportunity, economic power, independent living, and political participation. To learn more, visit the AAPD Web site: www.aapd.com.

About The Center for Public Representation: The Center for Public Representation (CPR) is a national public interest advocacy organization assists people with disabilities to control their own lives, to make their own decisions, and to fully participate in their communities. CPR has litigated numerous cases to ensure that people with disabilities can leave nursing facilities and other segregated institutions, and live productive lives in the community.