

Young Professionals and Community Legal Services Partner Up

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A great deal is changing in America, yet much remains the same. We are still proud citizens of a free and democratic society. We are still - practitioners in a distinguished and honorable profession. We still hold ourselves to heightened standards of conduct and human decency. We still believe that all people should be treated with dignity and respect, regardless of socioeconomic status or political affiliation. And we still have the opportunity to stand up for those who are less fortunate.

Organizations such as Community Legal Services (CLS) put these words into action every day. Since 1966, CLS has advanced the interests of the most marginalized members of our society. CLS has earned a national reputation not only for its ability to champion cases that implicate complex areas of the law, but also for its excellence in advancing laws and policies that promote justice for its clients.

In this article, we explore three areas of the law that may undergo changes in the near future, and we consider the ways in which CLS is preparing for these changes.

Budget Reconciliation and Block Grants

Budget reconciliation, a product of the Congressional Budget Act of 1974, is an infrequently invoked legislative process that limits the debate time for certain budget-related bills in the U.S. House of Representatives and Senate. When the process is invoked, the bill becomes immune from filibuster and proceeds to an expedited vote. According to the Center on Budget and Policy Priorities (CBPP), a nonpartisan research and

policy institute, the U.S. Congress has enacted 20 budget reconciliation bills since 1980.

In recent weeks, elected leaders have stated that they may use budget reconciliation measures not only to roll back the Affordable Care Act (ACA), but also to reduce other public benefits programs. CLS supervising attorney Kristen Dama explains that CLS is focused on the intersection of budget reconciliation measures and block granting public benefits programs.

The federal government determines the amount of block grants (i.e., fixed payments) that it distributes to the states, which in turn use the grants to fund public benefits programs. Generally, the states enjoy expansive autonomy in determining the best use for the grants; however, problems arise when legislators manipulate the grants to advance or derail partisan agendas, and the consequences can have a disproportionate impact on low-income individuals and families. Case in point: the Temporary Assistance for Needy Families (TANF) block grant.

Until 1996, the Aid to Families with Dependent Children (AFDC) program provided at least 50 cents of matching federal funding for every dollar of cash assistance that a state provided to low-income families. In 1996, Congress replaced the AFDC program with the TANF block grant. This afforded greater flexibility for the states to use the federal funding for purposes unrelated to cash assistance for those in need, which led to a shortfall in funding for vulnerable families. Moreover, according to the CBPP, federal TANF funding to states has remained “essentially

unchanged in nominal terms” since 1996. Adjusting for inflation, this equates to a 32% decrease in funding since the creation of the TANF block grant.

CLS has identified four pressing concerns relating to block grants: block grants decrease in value over time, which leaves states with fewer federal dollars to spend on the most needy families; block grant flexibility prompts states to limit benefits for low-income families (e.g., states can impose more draconian income eligibility requirements or limit lifesaving benefits); block grants permit states to divert funds from poor families to other interests that lawmakers prioritize (e.g., Pennsylvania spends less than 25 percent of its TANF funds on cash assistance for struggling families); and block grants prevent states from responding to crises, since states cannot receive supplemental federal funding during recessions and other economic catastrophes. These concerns are not merely academic. They will be assessed in an upcoming debate over whether Congress should convert the multi-billion dollar Medicaid program to a block grant.

Medicaid

For those who qualify, Medicaid expansion is vital to obtaining preventative, curative, and palliative health care services. A repeal of the ACA is likely to impose significant obstacles for certain low-income individuals who seek access to health care.

Prior to its expansion in 2015, Medicaid qualification in Pennsylvania depended upon various factors such as income, disability, age, pregnancy, and family status. It was not enough to have a lower income: in order to qualify for Medicaid, a Pennsylvanian also had to be disabled, pregnant, a child, a senior, or a very poor parent. As a result of this multifactor qualification scheme, many vulnerable Pennsylvanians did not qualify for health coverage.

Since the expansion of Medicaid in 2015, qualification has been based upon household income alone: under the current system, if a Pennsylvania resident’s household income is less than 133 percent of the federal poverty guidelines, he or she qualifies for Medicaid. For example, in 2016, a family of four would qualify for Medicaid if its household income was less than \$32,319. This simplified qualification system makes health care more accessible for low-income individuals who would have been ineligible for Medicaid under the old arrangement.

A repeal of the ACA could lead to a repeal of Medicaid expansion; moreover, a reshaping of the ACA could lead to a Medicaid eligibility system that is even less inclusive than the pre-expansion model. In either case, it is likely that certain vulnerable individuals and families would become casualties of these new laws.

Alternatively, Congress could convert the Medicaid program into a block grant system, in which case states would have more autonomy in selecting Medicaid eligibility and qualification factors. Under the current administration, a block grant system likely would result in more stringent qualification standards in Pennsylvania, which would render more low-income individuals and families ineligible for Medicaid. Moreover, any block grant system is likely to be tied to the consumer price index or the inflation rate, both of which historically lag behind the incremental rise of healthcare costs. This could give rise to a budgetary shortfall akin to that of the TANF block grant.

If the current Medicaid laws are repealed and replaced with their predecessors, as many as 700,000 Pennsylvanians could lose their health coverage; if they are replaced with laws that are more restrictive than the pre-expansion scheme, that number will be even greater. CLS is strongly opposed to any rollback on Medicaid expansion in Pennsylvania. As Dama notes, “Medicaid works, and we need to protect it.”

Consumer Protection

CLS attorneys in the Homeownership and Consumer Rights Unit represent homeowners who face residential mortgage foreclosures, fraudulent consumer practices and disputes with banking or check-cashing agencies. According to CLS staff attorney Kerry Smith, the unit “uses advocacy and litigation to address the predatory lending crisis, abusive mortgage practices, and other banking issues affecting low-income families.” Among other causes, CLS has been combatting the obstructionist practices of payday lenders who seek to impose up to triple-digit interest rates on low-income consumers.

The Department of Defense has acknowledged that such practices have caused a devastating impact on national security, as crippling debt has “compromised the financial readiness” of active duty service members. In response to these findings, the Department of Defense convinced Congress to pass a 36% fee and rate cap on loans to active duty service members. Pennsylvania is one of 15 states that impose a similar interest rate cap to protect their citizens. CLS is working not only to maintain these laws in the Pennsylvania legislature, but also to expand these protections throughout the United States.

Perhaps the most salient item on CLS’s consumer protection agenda is the need to defend the strength and independence of the Consumer Financial Protection Bureau (CFPB), a federal agency that began operations in 2011 to combat the havoc following the 2008 financial crisis. The CFPB is responsible for drafting and implementing governance standards to ensure that markets for consumer financial products are fair and open. Among other endeavors, the CFPB helps homeowners to obtain mortgage modifications and save their homes from foreclosure, streamlines the process of sending money abroad, and provides accessible, straightforward financial information to consumers. Since the inception of the CFPB, its

supervisory and enforcement work has resulted in approximately \$11.7 billion in consumer relief to more than 27 million consumers.

CLS is monitoring the potential abasement of the independence, power, and financing of the CFPB. An October ruling by the U.S. Court of Appeals for the D.C. Circuit in *PHH Corp. v. Consumer Financial Protection Bureau*, No. 15-1177, held that the director of the CFPB serves at the pleasure of the president of the United States, thereby striking down the law that established the CFPB as a federal agency with an independent director. While the CFPB has filed a petition for a rehearing en banc in this matter, it is uncertain whether the CFPB will retain its current director, and Congress could pass legislation that would subject the agency to Congressional appropriations and create a five-member agency board. According to Smith, “CLS’s clients need a strong, independent consumer protection watchdog because multi-member commissions tend to succumb to gridlock, inactivity, and a chronic unwillingness to challenge the industries they are charged with overseeing.”

This looming assault on the CFPB presents grave concerns for vulnerable members of society and their advocates: without the protections of a well-funded CFPB, low-income consumers may become more susceptible to the marketplace abuses that the CFPB has worked to eradicate. Furthermore, a weakening of the CFPB’s watchdog function could reopen the door for unencumbered companies and financial institutions to engage in predatory practices.

Call to Action

Organizations such as CLS provide integral support and advocacy services for the most vulnerable individuals and families in our communities. We encourage you to support these organizations, use your talents to serve the public interest, and speak with your elected leaders about the topics in this article or any other issues that are important to you. We also

encourage you to join us at a post-inauguration forum, titled “Justice for the Vulnerable: Opportunities in a Post-Election Landscape,” where our panel of public benefits and consumer rights experts will lead a nonpartisan discussion about protecting the rights of marginalized individuals and families. The event will take place on Thursday, Jan. 26 at 5:30 p.m. in the Philadelphia office of Marshall Dennehey Warner Coleman & Goggin. Register today for this event at cls-jraforum.eventbrite.com. For more information, contact Lisa Verges, director

of development at CLS, via email at lverges@clsphila.org.



Devine Eli H. Klein, Melanie J. Foreman, and Patrick Devine are members of the executive committee of justice rising advocates, an affinity group for young professionals who are interested in fighting poverty and promoting the work of Community Legal Services. If you are interested in becoming a member, contact Lisa Verges at lverges@clsphila.org. Foreman Klein