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May 13, 2013

*Via email to Jerry.Hartman@dbr.com*

Gerald S. Hartman, President  
Barbara McDowell & Gerald S. Hartman Foundation  
3607 Whispering Lane  
Falls Church, VA 22041-1119

Re: Final Report on Grant to Public Justice Center

Dear Mr. Hartman,

I am pleased to submit this final report for the grant from the Barbara McDowell Foundation to the Public Justice Center (PJC).

In 2011 the Foundation granted \$5,000 to the PJC to support the development of a lawsuit against the State of Maryland to address the significantly delayed response to applicants who are eligible for Medicaid for adult disabled individuals.

In January 2013, we filed a class action lawsuit against the State of Maryland on behalf of approximately 10,000 adult disabled applicants for Medicaid, whose applications have been pending longer than the 60 days required by law. The plaintiff class is represented by the Public Justice Center (PJC), the Homeless Persons Representation Project (HPRP), and the National Center for Law and Economic Justice (NCLEJ).

I am pleased to report that the filing of the lawsuit prompted quick and serious settlement discussions, which have led to a settlement agreement. Under the agreement, DHR will eliminate a backlog of over 9,000 delayed cases and agrees to promptly process all other applications for Medicaid on the basis of disability, in compliance with federal law and regulations. In addition, many of the problems identified by the plaintiff will be addressed with Medicaid expansion under the Affordable Care Act to all individuals with incomes at or below 133% of the federal poverty line. The state's progress in addressing the delays and eliminating the backlog of applications will be closely monitored by plaintiff's counsel through January 2014.

Our press release and media reports of the settlement are attached.

We have now expended the \$5,000 grant on staff expenses incurred during this litigation. We appreciate the Foundation's support. Please let me know if you have any questions.

Sincerely,

John Nethercut  
Executive Director

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## ***Agreement Reached In Lawsuit On Behalf Of Marylanders With Disabilities Seeking Medicaid***

FOR IMMEDIATE RELEASE

Contact: Camilla Roberson, Public Justice Center, (410) 625-9409 x224; Carolyn Johnson, Homeless Persons Representation Project; (410) 685-6589 x23; Laura Redman, National Center for Law and Economic Justice; (212) 633-6967.

### **Agreement Reached In Lawsuit On Behalf Of Marylanders With Disabilities Seeking Medicaid**

April 30, 2013

Medicaid applications based on disability will be processed faster as the result of a settlement of a lawsuit between the Maryland Department of Human Resources and the Plaintiff.

Under the agreement, DHR will eliminate a backlog of over 9,000 delayed cases and agrees to promptly process all other applications for Medicaid on the basis of disability, in compliance with federal law and regulations. In addition, many of the problems identified by the plaintiff will be addressed with Medicaid expansion under the Affordable Care Act to all individuals with incomes at or below 133% of the federal poverty line. The state's progress in addressing the delays and eliminating the backlog of applications will be closely monitored by plaintiff's counsel through January 2014.

"This is an important first step," said Mary Lou Magee-Kern, the named plaintiff in the case. "Now people won't be waiting months or years and getting sicker and sicker like me, just to find out if they have Medicaid."

The lawsuit, filed in early January, challenged longstanding delays in processing of Medicaid applications by low-income Marylanders with severe disabilities and serious medical needs. At the time the suit was filed, Magee-Kern had been waiting for an eligibility determination for more than 233 days. During that time she was unable to see specialists to help her manage her disabilities, except when hospitalized for an emergency. Within two days of the case being filed, Magee-Kern's application was processed and she was found eligible for Medicaid.

"Imagine being sick and getting sicker, and not being able to go see a doctor because you can't pay," said Camilla Roberson, staff attorney at the Public Justice Center. "Now, timely processing will at least eliminate one of the barriers to healthcare that low-income, vulnerable individuals have been facing for years. I am pleased that we could reach a quick resolution and concentrate resources on addressing the real problems immediately."

The Plaintiff in this case is represented by:

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## ***O'Malley administration settles suit over Medicaid backlog***

### **State reducing backlog of cases affecting low-income and disabled Marylanders**

By Luke Broadwater, The Baltimore Sun

7:30 AM EDT, April 30, 2013

The O'Malley administration has settled a class action lawsuit brought by critics who accused the state of failing low-income and disabled Marylanders by regularly taking nearly a year to approve medical assistance applications as part of a severe backlog.

The settlement means the Maryland Department of Human Resources will process claims faster and work to eliminate a backlog of more than 9,000 delayed cases, according to the Public Justice Center, the Homeless Persons Representation Project and the National Center for Law and Economic Justice, the organizations that filed suit.

"Imagine being sick and getting sicker, and not being able to go see a doctor because you can't pay," Camilla Roberson, staff attorney at the Public Justice Center, said in a statement. "Now, timely processing will at least eliminate one of the barriers to healthcare that low-income, vulnerable individuals have been facing for years."

The lawsuit, which the advocacy groups filed in January in Baltimore Circuit Court on behalf of nearly 10,000 disabled adults, sought to force the Department of Human Resources to approve the Medicaid applications within 60 days, as required by state law. The advocates alleged that nearly 46 percent of applications in 2012 were illegally delayed.

Ted Dallas, the state's secretary of human resources and member of Gov. Martin O'Malley's Cabinet, said the administration agreed to the settlement because his agency was already working to reduce the backlog.

Under the settlement agreement, the department agrees to eliminate the backlog of pending applications by Jan. 15, Dallas said in a statement. Already this year, the agency has reduced the backlog to 5,245 cases, a decrease of 66 percent, he added.

"These cases are, by their very nature, complex determinations of eligibility that involve medical determinations by doctors and significant documentation from the applicant, which can be difficult to collect," Dallas said.

Dallas added that portions of federal health care reform that become effective in January 2014 will simplify the application process with changes to the documentation requirements.

The advocacy groups said they will monitor the agency's progress closely.

"This is an important first step," Mary Lou Magee-Kern, a 47-year-old Reisterstown woman who was the lead plaintiff and lost health insurance when her husband was laid off, said in a statement. "Now people won't be waiting months or years and getting sicker and sicker like me, just to find out if they have Medicaid."

When the suit was filed, Magee-Kern had been waiting more than 230 days for the state to approve her application, according to the suit. Magee-Kern first filed her application for medical assistance May 29. She received two letters from the state, dated June 28 and July 30, that indicated "an agency delay has occurred."

As a result, Magee-Kern hadn't been able to get treatment by specialists — except when hospitalized — for kidney failure, diabetes and hypertension, among other ailments. Within two days of the case being filed, Magee-Kern's application was processed and she was found eligible for Medicaid, according to the advocacy groups.

*Baltimore Sun* reporter [Yvonne Wenger](#) contributed to this article.

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## **DHR to expedite thousands of Medicaid requests**

by Steve Lash

Published: April 30th, 2013

The Maryland Department of Human Resources has revamped its review process and will eliminate a backlog of more than 5,000 Medicaid applications by mid-January under an out-of-court settlement announced this week. The changes come ahead of federal regulations designed to hasten the provision of health insurance to low-income, disabled Marylanders, the agency said Tuesday.

The department's announcement followed negotiations regarding litigation that claimed it was taking substantially longer than the 90 days permitted by law to process applications for Medicaid assistance. The settlement calls on the department, by Jan. 15, to process 5,245 Medicaid applications awaiting review.

"We started implementing our strategy to reduce the backlog last fall, even before the lawsuit was filed," the department said in a statement. "Through additional staff training, improved communication and more frequent reporting, we have reduced the backlog by 66 percent [since Jan. 1] and we are processing more new applications for benefits on time."

The backlog of applications had reached 9,000 when three civil justice agencies filed suit in January on behalf of a disabled woman, Mary Lou Magee-Kern, who, according to the suit, had been waiting more than 230 days for her application to be processed.

Camilla Roberson, an attorney for Magee-Kern, said the lawsuit spurred the department to redouble its efforts to reduce the backlog and reach a settlement.

"The litigation concentrated their mind on this problem that has existed for some time," said Roberson, who is with the Public Justice Center Inc. in Baltimore. "They have to process them on time."

Under the settlement, Magee-Kern's attorneys will monitor the department's progress as it works to eliminate the backlog by Jan. 15 — a date that was deliberately placed in the agreement, Roberson said.

By that date, the federal health care law commonly known as Obamacare will make the application review process easier by eliminating the need for the department to determine that an applicant is in fact disabled, Roberson said.

As of Jan. 1, the federal Patient Protection and Affordable Care Act will permit eligibility to be based solely on income rather than proof of disability, she said.

Under the law, individuals and families will qualify for Medicaid if their incomes are no greater than 133 percent of the federal poverty level. For an individual, that would mean an annual income of \$15,281.70; it would be \$31,321.50 for a family of four, under the 2013 poverty guidelines.

Roberson, one of several attorneys who sued the department, said she is confident the backlog will be eliminated and not recur. If there is a recurrence, Roberson is prepared to file suit again.

"I am cautiously optimistic, but I am a lawyer so we can only be cautiously optimistic," Roberson said. "But I think they can do this. Otherwise we would not have gone to settlement."

Magee-Kern filed her lawsuit Jan. 16 in Baltimore City Circuit Court, and, by Jan. 18, her Medicaid application was processed and she was found eligible for Medicaid assistance, Roberson said.

The lawsuit, however, was not rendered moot, because Magee-Kern must reapply for Medicaid every six months, Roberson added.

In a statement, Magee-Kern called the settlement an important first step.

"Now people won't be waiting months or years and getting sicker and sicker like me, just to find out if they have Medicaid," she said.

In addition to the Public Justice Center, Magee-Kern was represented by attorneys for Homeless Persons Representation Project Inc. in Baltimore and the New York-based National Center for Law and Economic Justice.

Complete URL: <http://thedailyrecord.com/2013/04/30/dhr-to-expedite-thousands-of-medicaid-requests/>