



# ADVANCING ECONOMIC JUSTICE

*Advancing the cause of economic justice for low-income families, individuals, and communities across the country*



Fall 2008

## NCLEJ Takes Suffolk County, NY, to Court over Pervasive Medicaid Delays

Building on our record of success in New York City and Buffalo, on August 22, 2008, NCLEJ and the Empire Justice Center (EJC) filed a class action lawsuit, *Maryann C. v. DeMarzo*, in the U.S.

District Court for the Eastern District of New York challenging Suffolk County's failure to process Medicaid applications in a timely manner.

Each month, thousands of Suffolk County residents wait for their Medicaid eligibility determination beyond the limit of 45 days set by federal regulation. The State has reported that an average of 33% of applications were pending beyond 45 days for the months of August through November 2007. While they wait, applicants often must pay for needed health care out of their own pockets or forgo needed medical care.

To address these issues, NCLEJ and EJC are seeking an order requiring Suffolk County to (1) process applications for and provide Medicaid in a

timely manner; (2) make eligibility determinations for Medicaid separate from eligibility determinations for cash assistance; (3) develop and implement a process to effectively address immediate

medical or other needs of individual applicants pending a final eligibility determination; and (4) provide timely and adequate written notices of determinations of eligibility for Medicaid, including notice of fair hearing rights.

"Residents of Suffolk County have suffered long enough from persistent and illegal delays in process-

ing their Medicaid applications," according to NCLEJ Staff Attorney Lynn Lu. "It's about time the County takes its obligation to assist low-income individuals and families more seriously."

Laura Redman, NCLEJ Staff Attorney, added, "This lawsuit is a perfect example of NCLEJ's longterm commitment to assuring that states and counties follow the law and address the urgent health care needs of their poorest residents."

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— Lynn Lu  
NCLEJ Staff Attorney

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### CASE IN POINT

Named plaintiff Maryann C. was employed full-time as a phlebotomist and EKG technician until an emergency situation with one of her children required her to resign in May 2008. Although she is now working two part-time jobs, she lost her medical insurance when she switched from full-time to part-time employment.

While federal law requires Medicaid applications to be processed within 45 days, Ms. C.'s application had been pending for more than 70 days when the case was filed in August 2008. Recognizing the strong need to change the system, Ms. C. agreed to serve as a class representative.

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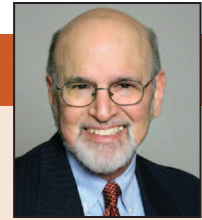
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## FROM THE EXECUTIVE DIRECTOR



National elections bring back such memories.

At the outset of my career here, Hubert Humphrey and Richard Nixon were battling for the Presidency. That election had a major impact on our clients and our work. Indeed, one of the reasons President Nixon gave for vetoing the first legal services bill was that it continued this program's federal "war on poverty" funding. That struggle took several years, but we were able to keep our federal funding.

After the 1980 election, President Reagan assigned Ed Meese to shutting us down. Again we survived, though federal cutbacks hurt millions of low-income families and reduced our funding drastically as well.

Newt Gingrich and the "Contract with America" Congress swept into power by the 1994 election used their new power to eliminate our federal funding for good – and to slash many of the programs serving the least fortunate.

As for us, we responded creatively, aggressively, and I am proud to say, successfully. We rebuilt NCLEJ with totally private funding. Sadly, low-income families have not fared so well, especially in recent years.

Because we are entirely privately funded, this November's election will not directly affect our funding streams. But so much is at stake for the people we serve. How will health care be provided to those without? What kinds of jobs will there be in the workforce, and what kinds of supports for people struggling to provide for their families in low-wage work? What accommodations and services will be provided to those with disabilities? Will supports be there for young people aging out of foster care?

Whatever the outcome of the elections on November 4, the people we represent will continue to need our services, and we will be there – with your support – to fight on their behalf.

Henry A. Freedman  
Executive Director

## NCLEJ Now Part of Two Major Workplace Drives

If you are a federal or CUNY employee, you can support NCLEJ through this fall's **Combined Federal Campaign** or **CUNY Campaign for Voluntary Charitable Giving**. Just look for numbers 10440 (CFC) and 1927 (CUNY). Thanks for your support!

# We've Been **Busy!**

## Working with California Advocates to Promote Lawful Operation of the New Computer System

At the request of local advocates in California, NCLEJ has agreed to serve as co-counsel in *Pich v. Wagner*, a case against the State agency that seeks to address improper denials and terminations of benefits by the CalWin computer system - a new computer system used in 18 California counties and operated by a consortium to administer public benefits.

## Conducting Trainings on Public Benefits Issues

From late June through September, Senior Attorney Cary LaCheen conducted trainings at several Independent Living Centers (ILCs): Rockland County Independent Living Center (NY), Action Towards Independence (Middletown, NY), Self-Initiated Living Options (Suffolk County, NY), and Westchester Independent Living Center (NY). Cary also conducted a workshop at the annual conference of the New York Association of Independent Living, a statewide organization of ILCs in New York, on using the ADA to improve access to public benefits at local Departments of Social Services.

In early October, Cary conducted a training organized by Minnesota Legal Services on the ADA and TANF for legal aid and legal services advocates from across Minnesota.

Staff Attorney Lynn Lu has also been sharing information about public benefits with local advocates. In August, Lynn offered a training at the Community Service Society on "*Public Assistance Work Rules: Access to Education*" as part of the Public Benefits Resource Center's training program. In September, she addressed the monthly meeting of the Welfare Reform Network at the Federation of Protestant Welfare Agencies, which was focused on access to education and training for public assistance recipients.

## Participating in National and Regional Conferences

Executive Director Henry Freedman participated in a panel at the New York Legal Assistance Partnership Conference that addressed the topic "*A Right to Counsel: The History and a View to the Future of the Civil Legal Services Movement.*" The conference was held in Albany in September. Lynn Lu also attended the conference and presented updates on NCLEJ cases at a pre-conference meeting of welfare advocates.

In July, Henry spoke about the causes of poverty in this country with approximately 30 "young leaders dedicated to human rights" from across Europe and the United States participating in the Humanity in Action American Summer program.

Director of Litigation Marc Cohan and Program Director/Senior Attorney Gina Mannix played active roles in the bi-annual National Legal Aid & Defender Association Director of Litigation and Advocacy Conference in late June. Gina organized and participated in a panel discussion on privatization and modernization developments and organized and moderated a workshop on current TANF issues, in which Marc participated. Marc organized and participated in a panel discussion on preserving and enforcing consent decrees.

In late September, Gina, Marc, and Cary LaCheen participated in a national conference that addressed the challenges and opportunities that new technologies, such as call centers, online applications, document imaging, and telephone interviews present for delivering benefits to low-income people. NCLEJ has been working on these issues with colleagues in several states. The conference, *What Does "Modernizing" the Delivery of Public Benefits Mean for Low-Income Clients?*, was sponsored by the Center on Budget and Policy Priorities. Cary was a presenter in a plenary session that addressed how these technologies affect people with disabilities and how to assure that implementation of these new approaches does not exclude people with disabilities from accessing benefits.

In July, Health Policy Coordinator Denise Soffel addressed the Medicaid Matters New York member's meeting in Albany, speaking about the role of Medicaid in health care reform in New York State.

## Staff News

Following two successful years as a Pfizer/Equal Justice Works Fellow at NCLEJ, **Laura Redman** has joined NCLEJ's staff as a Staff Attorney. As a Fellow, Laura honed her legal skills by participating in a variety of litigation and policy matters. She also made several presentations to Pfizer's Legal Department and was chosen as a Public Interest Law Hero by Equal Justice Works.

**Tedde Tasheff** has been selected Chair of the University of Kansas Alumni Association.

**Walther Chen**, a third year student from Northeastern University School of Law, and **Danielle Rock**, a second year student from New York University School of Law, are serving as legal interns at NCLEJ during fall 2008.



Laura Redman

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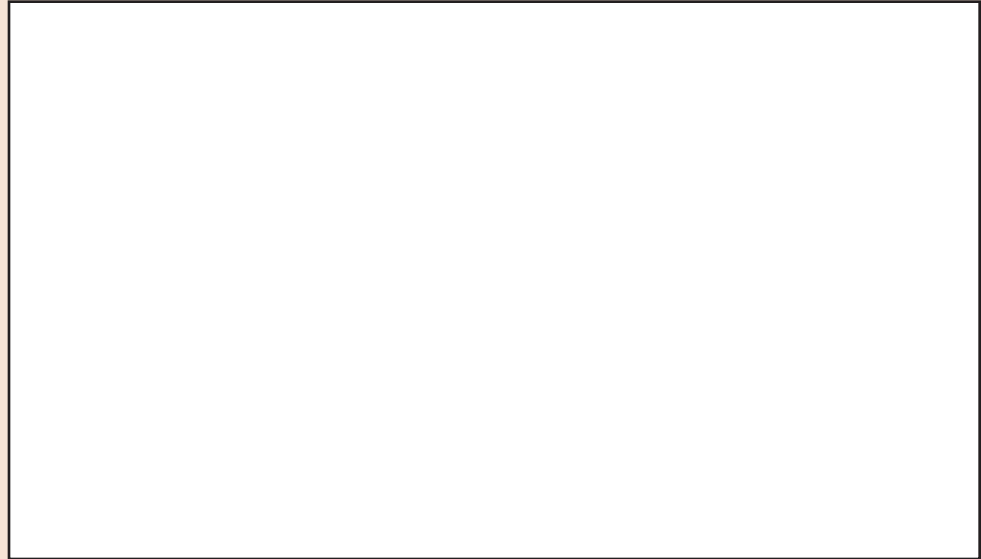
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## Benefit Focus: *Medicaid*

NCLEJ staff and Board have been hard at work to improve access to much-needed Medicaid benefits. Recent efforts include collaborative activities in New York and West Virginia.

### **Reforming Medicaid Client Notices in New York**

NCLEJ was invited by the New York-based United Hospital Fund to work with other New York advocacy organizations, the New York State Department of Health, the New York City Human Resources Administration, and service providers to assist in revising the notices that the State and local governments send to Medicaid applicants and recipients. The goal is to craft simpler and easier to understand notices with the hope that fewer people will be deterred or terminated from Medicaid due to an inability to

understand what is required of them.

### **Simplifying New York’s Medicaid Applications and Renewals**

NCLEJ’s Health Policy Coordinator Denise Soffel is working with a group of advocates to simplify the process for Medicaid applications and renewals. Priorities for the year are elimination of the face-to-face interview at application and elimination of the asset test. The group met recently with representatives from the New York State Department of Health’s office of health insurance programs to discuss their planned initiatives. The current administration is committed to enrolling all eligible individuals into New York’s public health insurance programs – Medicaid, Family Health Plus, and Child Health Plus. The Department of Health has been working closely with Denise and

other advocates to identify and eliminate obstacles to enrollment.

### **Addressing Medicaid Access Problems in West Virginia**

NCLEJ staff have been working with the Direct Action Welfare Group, a West Virginia grassroots group led by NCLEJ Board member Evelyn Dortch, to address problems in West Virginia’s experimental “two-tier” Medicaid program. In late August, there was major local press coverage of the group’s survey showing that thousands of low-income children and families have been left without access to critical medical care. The report claims that because of the State Medicaid office’s mismanagement of the program, two-thirds of West Virginians who receive Medicaid benefits were left unaware of the steps they need to take to avoid being dropped to the lower tier of benefits.