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Tennessean.

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TennCare sued by kids who lost Medicaid

[Brett Kelman](#), Nashville Tennessean Published 10:39 a.m. CT April 20, 2020 | Updated 11:30 a.m. CT April 20, 2020

The Sewell family is just one of many to find out that their TennCare coverage was dropped due to paperwork

As coronavirus besieges Tennessee, a new class-action lawsuit seeks to force TennCare to reinstate insurance for thousands of children and disabled adults allegedly cut from coverage due to [problems with eligibility, paperwork and appeals](#).

The lawsuit, [filed on behalf of 35 kids and adults who lost coverage at some point in the past year](#), claims the "defective process" by which TennCare verifies eligibility is "rife with errors" that cause improper cuts from the state Medicaid program.

The new lawsuit is the first to claim these problems persisted after last year's launch of TennCare Connect, a [modernized application system that cost \\$400 million](#) in state and federal tax dollars.

"As a result, thousands of Tennesseans who rely on TennCare for health coverage have been terminated from that benefit without notice, many only learning they do not have coverage after seeking medical care," the lawsuit states.



Abel Sewell, 6, puts on his bicycle helmet at his home Monday, June 17, 2019, in Chattanooga, Tenn. Abel lost TennCare coverage in 2018 while recovering from leukemia. (Photo: Courtney Pedroza/The Tennessean)

TennCare has not denied that many people were disenrolled from coverage in recent years but insists in court arguments there is no proof anyone was improperly cut from insurance programs. An agency spokesperson declined to comment on the lawsuit.

This lawsuit, [spearheaded by the nonprofit Tennessee Justice Center](#), was filed on March 19 but hasn't been reported by any news organization until now. It comes at a critical and complex time for Tennessee's health care safety net. The coronavirus pandemic has infected [more than 6,500 people and killed at least 140 statewide](#), and Tennessee's uninsured residents – estimated to be about one-tenth of the state – are among those most vulnerable. Gov. Bill Lee announced plans to create [a new safety net to protect the uninsured](#) from the virus, but his proposal hasn't been approved by the federal government.

In the face of the pandemic, TennCare has stopped cutting people from its programs, removing much of the urgency from the class-action lawsuit. The Justice Center pushed for the lawsuit to proceed at an accelerated pace, but U.S. District Judge Waverly Crenshaw denied their request last week, citing the virus and TennCare's actions.

Because new cuts have been halted, the class-action lawsuit will now focus on kids and adults who lost coverage after the launch of TennCare Connect in March of 2019, said Justice Center Executive Director Michele Johnson.

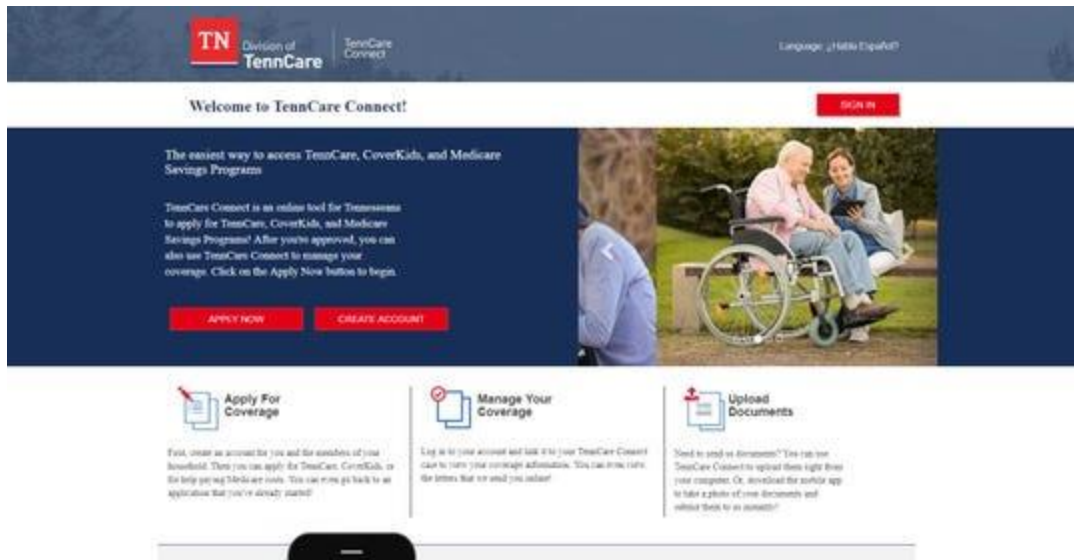
Johnson said each of the 35 plaintiffs lost their coverage and later regained it with help of the Justice Center. The lawsuit is intended to aid people who were similarly cut from TennCare but do not know how to navigate the appeal process.

This group is believed to be at least 10,000 people, Johnson said, with the plaintiffs as representatives of "a broken system that continues to hurt everyone who touches it."

"(TennCare) stopped more kids from being terminated, but they haven't made whole all the kids who've been terminated and all the adults who've been terminated improperly up to and including March of this year," Johnson said.

Michael Kirk, an attorney for TennCare, argued in court documents that the Justice Center hasn't shown that anyone lost their insurance inappropriately.

"While Plaintiffs claim that there are 'thousands' of members of their proposed class who are eligible for TennCare but were improperly disenrolled, they have not produced a shred of evidence that even one such person exists, and the State stands ready to enroll any individual who applies for TennCare and demonstrates his or her eligibility," Kirk said.



The TennCare Connect a web portal, part of a brand new, \$400M TennCare application system, launched in March 2019. (Photo: Kelman, Brett M)

Many kids lost TennCare coverage due to paperwork problems

TennCare, which is Tennessee's state-run Medicaid system, provides insurance coverage to about 1.4 million residents, most of whom are children from low-income families, disabled adults and

expectant mothers. Enrollment has risen and fallen in the past five years based largely on if the state attempts to verify the eligibility of participants.

TennCare ramped up efforts to confirm eligibility in 2016, mailing out hundreds of thousands of paperwork packets to participating families over a three-year span. The continuation of coverage for each family hinged almost entirely on if they received, completed and returned this paperwork.

The Tennessee Justice Center claims that nearly 250,000 children — or 84% of kids who went through this process in 2017 and 2018 — ultimately lost their coverage, according to the new lawsuit. Of those children, more than two thirds lost coverage, not because they were deemed ineligible, but because their parents allegedly failed to return or fully complete the TennCare paperwork.

“... In many instances, the failure to respond was actually due to the state’s failure to notify the family that they needed to supply information,” the lawsuit states. “In other cases, families did respond but lost their coverage anyway because the state failed to process their responses.”

The statistics cited in this lawsuit largely align with [a 2019 Tennessean investigation into TennCare’s eligibility determination process](#). The Tennessean analyzed a TennCare database of 319,000 children who were required to complete TennCare’s eligibility paperwork between January 2016 and December 2018. Of those kids, 16,629 lost coverage because they were financially ineligible for state insurance. Another 220,000 either lost coverage or faced losing coverage due to incomplete, late or unreturned paperwork.

Earlier this year, a TennCare audit by the Tennessee Comptroller of the Treasury found that, over a broader timespan, 177,000 children were disenrolled from state insurance due to incomplete or unreturned paperwork between January 2016 and May 2019. The audit concluded that TennCare followed federal regulations when disenrolling children “with only minor exceptions.”

TennCare has disputed the findings of the Tennessean investigation but not those of the government audit.

After the audit results were released in February, TennCare spokeswoman Sarah Tanksley said the audit confirmed TennCare “performed as required by law” and found “no systemic issues” that call into question the legality or accuracy of the renewal process. She said anyone who lost coverage “did so appropriately.”

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