

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

CODY FLACK and
SARA ANN MAKENZIE,
MARIE KELLY, and
COURTNEY SHERWIN,

Plaintiffs,

v.

WISCONSIN DEPARTMENT OF
HEALTH SERVICES and
LINDA SEEMEYER, in her official capacity
as Secretary of the Wisconsin Department
of Health Services,

Defendants.

Case No. 3:18-cv-00309-wmc
Judge William Conley

DECLARATION OF CATHERINE MCKEE

I, Catherine McKee, declare as follows:

1. I am a senior attorney at the National Health Law Program (“NHeLP”). NHeLP is a non-profit law firm that provides consultation and co-counseling assistance to legal services, disability rights, and other attorneys nationwide on a range of health issues affecting the poor. NHeLP advocates, educates and litigates at the federal and state levels, working to ensure that low-income people and underserved communities can obtain the quality care to which they are legally entitled and holding state and federal Medicaid agencies accountable for their programs. NHeLP brings significant expertise in federal Medicaid law and has previously litigated numerous complex cases and class action suits involving Medicaid Act and federal anti-discrimination law. NHeLP commonly co-counsels cases with law firms and non-profit organizations and has experience in efficiently providing its expertise to the case.

2. My legal practice at NHeLP focuses on issues related to the Medicaid program, including access to coverage and services.

3. I am co-counsel with the firms Relman, Dane & Colfax, PLLC and McNally Peterson, S.C. in the above-captioned case. I have been co-counsel in this case since the filing of the original complaint. I submit this declaration in support of the plaintiffs' motion for class certification.

4. I received my J.D. from the University of California, Berkeley, in 2009. I am admitted to the Bar in California (inactive) and North Carolina.

5. Prior to joining NHeLP, I was as a Soros Justice Fellow at the National Housing Law Project and later a staff attorney at Legal Services for Prisoners with Children.

6. Since joining NHeLP in March of 2014, have participated in several complex track and/or class action cases in the federal district and circuit courts of appeals. The vast majority of these cases concern publicly funded health insurance programs, particularly Medicaid. Recent cases where I have served in a leading role include: *Gresham v. Azar*, No. 1:18-cv-1900 (D.D.C. filed August 14, 2018) (suing HHS's approval of amendment to Arkansas's section 1115 Medicaid waiver project), *Stewart v. Azar*, 313 F. Supp. 3d 237, 2018 WL 3203384 (D.D.C. 2018) (challenging HHS's approval of Kentucky's section 1115 Medicaid waiver project), and *Garrido v. Dudek*, 658 Fed. Appx. 973 (11th Cir. 2016) (defending against challenge to award of attorney fees in case where court enjoined Florida Medicaid from refusing to cover behavioral interventions for children in Medicaid with autism spectrum disorders).

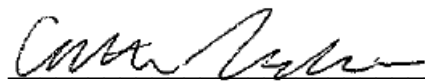
7. I have also served as counsel for amici curiae in several cases involving Medicaid, public benefits, and civil rights, including *Mayhew v. Burwell*, 772 F.3d 80 (1st Cir. 2014) (supporting HHS's refusal to allow Maine to eliminate Medicaid coverage for certain young

adults), *cert denied* 135 S. Ct. 2805 (2015), *Barry v. Lyon*, 834 F.3d 706 (6th Cir. 2016) (supporting challenge to Michigan's implementation of the "fleeing felon" rule in its food stamps program, which improperly prevented many low-income people from accessing benefits), and *State of Alaska v. Planned Parenthood of the Great Northwest*, No. S-16123 (Alaska, argued March 31, 2017) (supporting challenge to Alaska law requiring doctors to notify parents of minors seeking abortions). In addition, I have written numerous publications on Medicaid law.

8. NHeLP has committed to assuring the resources needed to represent the class and will continue to work with other class counsel to competently investigate claims and issues as they arise in this case. Including the two attorneys appearing as counsel in this case, NHeLP employs 25 practicing attorneys who bring a wealth of experience in Medicaid law and federal non-discrimination laws, including Section 1557 of the Affordable Care Act. NHeLP attorneys have not only engaged in significant litigation in these areas, but have also published hundreds of articles and issue briefs analyzing and explaining these areas of law.

I declare, pursuant to 28 U.S.C. 1746 and under the penalty of perjury, that the foregoing statements in this affidavit are true and correct.

Executed this 18th day of October, 2018.


Catherine McKee