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Dental Hygienists Win Case against State of California

Court rules compensation cannot be cut without federal approval

LOS ANGELES – Eight dental hygienists represented by AARP Foundation Litigation (AFL) and the Hall Law Corporation have won a major victory in a case against the California Department of Health Care Services (DHCS) that involves cuts to the hygienists’ compensation under California’s Medicaid funded Denti-Cal program. The order will allow the hygienists to continue to provide life-saving dental care for residents of skilled nursing homes and intermediate care facilities.

The lawsuit was filed by eight Registered Dental Hygienists in Alternative Practice (RDHAP) who provide dental care to the developmentally disabled and elderly people who reside in Intermediate Care Facilities and Skilled Nursing Facilities. The hygienists sued DHCS after it imposed a 68% cut in the provider rates for perio-maintenance, the required standard of care for their patients with serious gum disease. The lawsuit, ***Judy Boothby v. California Department of Health Services***, filed in **Los Angeles County Superior Court Case No. BC 627948**, alleges that DHCS failed to follow federal law, which requires California to seek federal approval before cutting Medicaid provider rates.

RDHAPs provide in-facility care to California’s underserved Denti-Cal recipients. Denti-Cal is part of California’s Medi-Cal program designed to provide poor people essential dental care. In 2016, DHCS dropped the rate for perio-maintenance, 68% from \$130 to \$55, without seeking federal approval. The State also imposed a new x-ray diagnostic requirement, creating an additional barrier to care. According to DHCS, the provider cuts impacted 100,000 Medicaid beneficiaries.

In her order, Judge Strobel concluded that “the substantial cut in the periodontal maintenance rate,” as well as the State’s new x-ray policy for nursing home and intermediate care residents was a “material change” in California’s Medi-Cal policy and operations that mandated prior approval from the federal government which DHCS failed to obtain.

“Multiple studies indicate that lack of proper dental care can exacerbate several chronic diseases linked to poor oral health, such as diabetes and pneumonia. The reduced rates for perio-maintenance compromise access to quality care,” said AARP Foundation attorney Barbara Jones. Kirsten Roling, DDS, a dentist who has dedicated her career to high risk underserved patients, advised the court that: “Approximately one in ten cases of death from pneumonia in elderly nursing home residents may be prevented by improving oral hygiene.”

Lead plaintiff, Judy Boothby, who has cared for these patients for over 30 years, says that, “Many of my patients can not even brush their own teeth. Without proper oral care, they are in jeopardy of losing their remaining teeth so they can’t eat or talk.” Plaintiff Gita Aminloo added that “the newly imposed x-ray requirements were impossible for many patients with developmental disabilities, many of whom have involuntary head movements and are unable to follow instructions.”

"The court has gone a long way to help the California Department of Health Care Services realize its stated vision: to preserve and improve the overall health and well-being of all Californians," said Larry Hall, attorney for the hygienists.

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About AARP Foundation

AARP Foundation works to ensure that low-income older adults have nutritious food, affordable housing, a steady income and strong and sustaining bonds. We collaborate with individuals and organizations who share our commitment to innovation and our passion for problem solving. Supported by vigorous legal advocacy, we create and advance effective solutions that help struggling older adults transform their lives. AARP Foundation is the affiliated charity of AARP. *Learn more at www.aarpfoundation.org.*

About AARP

AARP is a nonprofit, nonpartisan organization, with a membership of nearly 38 million that helps people turn their goals and dreams into 'Real Possibilities' by changing the way America defines aging. With staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, AARP works to strengthen communities and promote the issues that matter most to families such as healthcare security, financial security and personal fulfillment. AARP also advocates for individuals in the marketplace by selecting products and services of high quality and value to carry the AARP name. As a trusted source for news and information, AARP produces the world's largest circulation magazine, AARP The Magazine and AARP Bulletin. AARP does not endorse candidates for public office or make contributions to political campaigns or candidates. To learn more, visit www.aarp.org or follow @AARP and our CEO @JoAnn_Jenkins on Twitter.

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