

No. 19A785

**In the
Supreme Court of the United States**

DEPARTMENT OF HOMELAND SECURITY, et al.,

Applicants,

v.

NEW YORK, et al.,

Respondents.

I, Rachel Pryor pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I serve as the Deputy Director for Administration for the Virginia Department of Medical Services (“DMAS”) since October 2018. Prior to my appointment, I served as the Senior Health Policy Advisor on the Democratic Staff of the Energy and Commerce Committee in the U.S. House of Representatives, managing a broad legislative portfolio that included Medicaid & CHIP, Medicare, and Long-Term Care issues. I have a Masters in Social Work from the University of Maryland with a dual Clinical/Policy focus, and a Juris Doctor from Georgetown University Law Center.

2. I submit this declaration in support of Plaintiffs’ application in the above-captioned matter. I have compiled the information in the statements set forth below either through personal knowledge, through the DMAS personnel who have assisted me in gathering this information, or

on the basis of documents that I have reviewed. I have also familiarized myself with the Public Charge Final Rule (“Rule”) in order to understand its immediate impact upon DMAS.

3. As Deputy Director, I work directly with the DMAS Director and the Virginia Secretary for Health and Human Resources on high-level policy and strategic issues. I directly supervise a team of more than 150 staff members, overseeing all eligibility and enrollment operations, appeals operations, legislation and all regulatory and policy functions for the Agency. DMAS includes more than 700 full-time, wage and contract individuals, and a wide range of programs and projects. The Agency oversees a broad portfolio of services and works extensively with state, local, tribal and community partners to improve the health and well-being of Virginians through access to high quality health care coverage. The biennial budget for DMAS is roughly \$27 billion, approximately 60% of which is federal funding.

4. DMAS administers Virginia’s Medicaid and Children’s Health Insurance (“FAMIS”) programs. Through the Medallion 4.0 and Commonwealth Coordinated Care (“CCC”) Plus managed care programs, more than 1.5 million Virginians access primary and specialty health services, inpatient care, behavioral health, and addiction and recovery treatment services. In addition, Medicaid long-term services and supports enable thousands of Virginians to remain in their homes or to access residential and nursing home care. Medicaid members historically have included children, pregnant women, parents and caretakers, older adults, and individuals with disabilities. In 2019, Virginia expanded the Medicaid eligibility rules to make health care coverage available to over 400,000 newly eligible, low-income adults.

5. DMAS works with a multitude of community partners throughout the Commonwealth of Virginia who represent Medicaid/FAMIS beneficiaries in issues to DMAS,

including the Virginia Health Care Foundation (“VHCF”) and the Virginia Poverty Law Center (“VPLC”).

6. The VHCF is a non-profit public/private partnership established by Virginia’s General Assembly in 1992 with the mission of increasing access to primary health care for uninsured and medically underserved Virginians. VHCF operates a number of programs and provides grants throughout the state to fulfill its mission. A number of these grants fund a cadre of 23 Outreach Workers who provide 1:1 application assistance to those eligible for Virginia’s Medicaid and FAMIS health insurance programs.

7. The DMAS contracts with VHCF to fund and oversee nine of these outreach workers and to provide “SignUpNow” workshops to train individuals who help their clients or patients apply for Medicaid. DMAS and VHCF have worked hand-in-hand for 20 years to maximize enrollment in state-sponsored health insurance and address policy and system issues that create barriers to achieving this mutual objective.

8. The VPLC is a statewide non-profit organization that provides training to local legal aid program staff, private attorneys, and low-income clients relating to the legal rights of low-income Virginians. The VPLC is a community partner that brings forward Medicaid issues on behalf of DMAS recipients.

9. The DMAS has received reports from the Virginia Department of Social Services (“DSS”), our community partners, and health care advocates, prior to the release of the February 24, 2020 new U.S. Citizenship and Immigration Services (“USCIS”) guidance and since the release of the guidance, that individuals have requested the closure of their Medicaid benefits because of the Rule.

10. DMAS has also received information from community partners both before and after USCIS issued guidance relating to the rule and COVID-19 treatment in mid-March reflecting that immigrant families are still very confused about their rights to benefits and the possible impact of the Rule. DMAS has been informed by a community partner that the fear even keeps immigrant families from coming to assisters or asking additional questions.

11. VHCF outreach workers have experienced the chilling effect of the Rule, prior to the release of the March USCIS guidance and since the release of the guidance, on individuals seeking health care and applying for Medicaid/FAMIS since the start of the pandemic. Even when outreach workers try to assure families that it is ok to apply for Medicaid/FAMIS, outreach workers are seeing an increasing number of families who ultimately decide not to apply and in some cases, withdraw from coverage.

12. One outreach worker reported to DMAS she has heard from families and local human services providers that the immigrant community is very concerned about medical bills due to the lack of health insurance, so they are not going to the doctor if they present symptoms of COVID-19. They will wait to go to the emergency room when the condition gets serious.

13. During various outreach events occurring in February and March 2020 at Northern Virginia free clinics, five families did not want to apply for Medicaid for their children due to the fear of the Rule. All family members were green card holders and were looking into applying for citizenship.

14. The VHCF outreach workers have had some clients withdraw new applications and clients who were already covered cancel because of the public charge. New clients calling for information about the programs are hesitant to apply.

15. During the week of March 9, 2020 one VHCF outreach worker met with a family from Venezuela that did not apply for health insurance benefits because they fear this would affect their ability to adjust their immigration status. The mother works for a Richmond area human services organization. She did come to the appointment and said that she felt very hesitant to submit an application for her two children because of the public charge rule. Based on the information provided by the worker, she decided to not apply.

16. Over the past eight weeks, staff at several health safety net organizations has shared with a VHCF outreach worker that prospective patients have refused to go through the clinic's financial screening process, because it includes submitting a Medicaid application prior to determining their eligibility for clinic services.

17. One family with a child who has autism and many medical needs in the Richmond area withdrew their Medicaid application due to fear of the Rule.

18. On or around March 13, 2020, USCIS posted an alert (in English only). This alert explained that while the Rule "does not restrict access to testing, screening, or treatment of communicable diseases, including COVID-19," USCIS was nonetheless required to "consider the receipt of certain cash and non-cash public benefits, including those that may be used to obtain testing or treatment for COVID-19 in a public charge inadmissibility determination," including most forms of federally funded Medicaid. *See* <https://www.uscis.gov/greencard/public-charge>.

19. Despite this guidance, outreach workers continue to report that immigrants are confused and are deterred from accessing medical treatment or testing for COVID-19.

20. Prior to the release of the March 13 USCIS guidance and since the release of the guidance, navigators and community partners (food banks, free clinics, and hospitals) have

reported immigrants throughout Virginia expressing concerns with the Rule and terminating/avoiding enrollment in public benefits.

21. For example, a client who entered the United States with an approved asylum applied for FAMIS only for her three children, all under the age of five years-old, at the end of March 2020. On April 3, 2020, the parent called and requested that the applications for all three children be withdrawn due to concern with the Rule.

DATED this 7th day of April, 2020



Rachel Pryor, Deputy Director
Virginia Department of Medical Assistance Services