

News Release

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Center for Medicare Advocacy Sues on Behalf of Medicare Beneficiaries Seeking Fair Access to Home Health Care

Washington, DC: After years of fruitless efforts to ensure Medicare beneficiaries can receive Medicare-covered home health care in general, and aide services in particular, the Center for Medicare Advocacy (the Center) filed a lawsuit today representing Medicare beneficiaries who rely on home health aide services to live safely in their communities. Tens of thousands of older and disabled people are estimated to need and qualify for these Medicare-covered home care services. Medicare-covered home health aide visits declined by 90% from 1998 to 2019.

The case was filed in federal district court for the District of Columbia as a class action against the Secretary of Health and Human Services for failing to properly administer the Medicare home health benefit.

The plaintiffs are three individuals and two organizations. While Medicare law authorizes coverage for up to 35 hours per week of home health aide services for personal, hands-on care, the plaintiffs have struggled to obtain anywhere close to that. Although they need and qualify for Medicare-covered home health aides, they have received either very minimal or no such aide services at all. They face serious health consequences as a result.

“We turned to the courts for enforcement because Medicare beneficiaries with long-term and chronic conditions have been unable to access necessary home health aide services for far too long,” said Judith Stein, Founder and Executive Director of the Center for Medicare Advocacy. “These beneficiaries qualify for aide services under the law, but they face a pattern of misinformation, denials, and underservice by Medicare-certified home health agencies and Medicare contractors. They can’t wait any longer. Medicare must live up to its promise and ensure that older and disabled adults receive the home health aide services they require and qualify for under law.”

“Home health aides are often the very services that allow people with long-term disabilities to remain in their homes. Without this critical care, they are one crisis away from being forced into an institutional setting,” said Alice Bers, Litigation Director of the Center for Medicare Advocacy.

“I’ve exhausted almost every Medicare-certified home health agency in my area, seeking aide services I’ve qualified for and needed,” said Catherine Johnson, 57, the lead named plaintiff, who lives in Missouri and has multiple sclerosis (MS). Ms. Johnson has quadriplegia and was hospitalized for intensive care in 2021 following a period of erratic and unpredictable home health aide services.

Plaintiff Katherine Vaczi, 80, of New Jersey, was paralyzed from the waist down from a spinal cord injury she incurred in a car accident at the age of 23. Ms. Vaczi went on to teach second grade for 25 years and has lived in the community for over 40 years. After a hospitalization in early 2022, Ms. Vaczi was forced into a skilled nursing facility when no Medicare-certified home health agency would accept her. She has struggled to access the home health aide services she requires. “Every day, I keep fighting to remain and thrive in my own home,” said Ms. Vaczi.

Plaintiff Cara Bunnell, 51, of Michigan, states, “I had no recourse when the Medicare home health agency I was using terminated my aide services. Now I’m paying out of pocket for the same services Medicare should be covering, and I don’t know how much longer I can afford it. Ms. Bunnell has quadriplegia related to her MS and retired from teaching in the public school system due to her disability.

Two non-profit organizations are also plaintiffs. “The National Multiple Sclerosis Society serves many people who rely on Medicare for their health insurance, but who cannot access the critical, home health aide services they need for help with activities of daily living. Our constituents are often incorrectly told that Medicare does not cover aide services for more than a few weeks. Our staff spend considerable time and effort working to connect people to the right solutions and this inaccurate message prevents many people with MS from receiving vital aide services that are supposed to be part of their Medicare benefits,” said Karen Mariner, EVP, MS Navigator Experience of the National Multiple Sclerosis Society.

Team Gleason, founded by former New Orleans Saints football player Steve Gleason, who lives with ALS, helps people with ALS across the United States. “Team Gleason has seen countless people with ALS simply give up when it comes to receiving Medicare-covered home health aide services. They contact our organization for help when they are at the end of their rope. By law, people with ALS are quickly enrolled in Medicare in recognition of the severity of their condition. Still, no one is making sure that they can actually access the aide services that Medicare is supposed to cover.” said Clare Durrett, Strategic and Policy Advisor, Team Gleason.

Plaintiffs challenge the Secretary’s policies and practices that violate Medicare law, as well as Section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of disability. Section 504 imposes a duty on federal agencies to avoid unjustified institutionalization of people with disabilities. Plaintiffs seek changes to address these violations that will remove barriers to necessary, Medicare-covered home health aide care for individuals who qualify under law.

Read the [Complaint](#) in *Johnson v. Becerra*, No. 1:22-cv-03024.

For more information about Medicare and home health care, visit the Center for Medicare Advocacy’s [website](#).