



## NATIONAL CAMPAIGN TO **RESTORE CIVIL RIGHTS**

### **HEALTH CARE**

Americans have no federal right to quality health care, health insurance, or non-emergency treatment. In the United States, there are more than 45 million people without health insurance, and many more are seriously underinsured, as their insurance companies find whatever loopholes possible to refuse to pay for the necessary treatments. Most Americans would agree that our health care system is just not up to par, but the debate on how to fix it is undeniably one of the biggest and most controversial political issues of our time.

There are, however, some key rights. Children insured through the low-income Medicaid program, for example, are eligible for basic pediatric care, such as hearing and vision tests, and lead screening. Unfortunately, it is becoming more and more difficult for people and their families to get the health care that the federal Medicaid Act guarantees.

For example, Westside Mothers, a group of women in Detroit, Michigan, found that their state wasn't providing their children with the basic screening, diagnostic, and treatment services required by Medicaid, and they were eventually forced to take their case to court. Although the mothers eventually won, they found themselves in a long and unexpected battle over the effort to limit the rights of individuals to take a state to court and hold it accountable to its citizens.

Recent court rulings have also made it more difficult for people to enforce other rights related to health. A group of parents in Kentucky brought a case to court on behalf of their children because the public housing they lived in was full of lead paint, which can cause severe brain damage in children. Their local housing authority refused to remove it. The federal court hearing the case ruled that the parents couldn't go to court to enforce their rights under the Lead-Based Paint Hazard Reduction Act, the law passed by Congress to force housing authorities and property owners to remove lead paint. The court also said its decision might have been different had the parents owned or leased their property, but because these individuals lived in public housing they had no right to bring this case.

In *Riegel v. Medtronic, Inc.*, the Supreme Court decided that a patient, Charles Riegel, could not go forward with his lawsuit for negligence in the design, manufacture and labeling of a medical device, which had burst during a medical procedure, causing extreme complications. The Court ruled that the federal process for approving medical devices set the standards for safety, superseding the authority of state laws. As a result, this decision left health care standards in the hands of federal regulators, leaving the patient with no alternative avenues of relief once a medical device is approved by the federal government.

Court rulings have also affected the rights of people in immigrant communities all across the country who struggle to communicate with their health care providers, often with life and death consequences. Under federal and some state laws, medical providers have the responsibility to ensure that they are communicating with patients, from listening to concerns to talking about diagnoses and proposed treatments. Federal law says that hospitals or other health care providers that take federal money must make their proposed treatments available in languages that people can understand, but, as a result of a Supreme Court ruling in a case called *Alexander v. Sandoval*, people can no longer go to court to enforce this law. This case also limited the ability of patients to challenge other barriers to access, such as discrimination by medical providers.

As a result of recent federal court rulings, a right to quality health care for all has been pushed further away. Americans have been left with fewer weapons to fight for their rights. **For more information on health justice and the courts, please contact the National Campaign to Restore Civil Rights at: [rollback@nylpi.org](mailto:rollback@nylpi.org).**

For detailed case information, please see the below:

- *Westside Mothers v. Haveman*, 289 F.3d 852 (6t Cir. 2002).  
<http://www.publichealthlaw.net/Reader/docs/Westside.pdf>
- *Riegel v. Medtronic, Inc.*, 552 U.S. 312 (2008).  
[http://www.oyez.org/cases/2000-2009/2007/2007\\_06\\_179](http://www.oyez.org/cases/2000-2009/2007/2007_06_179)
- *Alexander v. Sandoval*, 532 U.S. 275 (2001).  
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=99-1908>