

Settlement Reached That Will End Medicare "Improvement Standard"

Attorneys from the Center for Medicare Advocacy, Vermont Legal Aid and the Centers for Medicare & Medicaid Services (CMS) have agreed to settle the "Improvement Standard" case, *Jimmo v. Sebelius*. A proposed settlement agreement was filed in federal District Court on October 16, 2012. On November 20, Chief Judge Christina Reiss of the District of Vermont signed an order preliminarily approving the settlement agreement. By December 10, 2012, [notice of the settlement](#) will be posted on the websites of numerous organizations, including the seven national organizations that served as plaintiffs in the case, which will alert advocates and beneficiaries to the terms of the settlement. Class members will be able to file written objections to the settlement. The court will hold a Fairness Hearing on January 24, 2013 "to determine whether the settlement is agreement is fair, reasonable and adequate," after which it is hoped that the judge will issue an order permanently approving the settlement agreement.

When the judge approves the proposed agreement, CMS will revise the Medicare Benefit Policy Manual and other Medicare Manuals to correct suggestions that Medicare coverage is dependent on a beneficiary "improving." New policy provisions will state that skilled nursing and therapy services necessary to maintain a person's condition can be covered by Medicare.

For decades, Medicare beneficiaries - particularly those with long-term or debilitating conditions and those who need rehabilitation services - have been denied necessary care based on the "Improvement Standard". This illegal practice has resulted in Medicare coverage for vital care being denied to thousands of individuals on the grounds that their condition was stable, chronic, not improving, or that the necessary services were for "maintenance only." The use of this illegal standard has had a particularly devastating effect on patients with chronic conditions such as Multiple Sclerosis, Alzheimer's disease, ALS, Parkinson's disease and paralysis. The lawsuit, [Jimmo v. Sebelius](#), was brought on behalf of a nationwide class of Medicare beneficiaries by six individual beneficiaries and seven national organizations representing people with chronic conditions, to challenge the use of the illegal Improvement Standard.

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