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Public Welfare

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N.Y. CONST. art. XVII, § 1:

The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.

**SUPREME COURT
NEW YORK COUNTY**

Aliessa v. Whalen¹
(decided May 17, 1999)

Plaintiffs, who had immigrant status, sought a declaratory judgment challenging certain aspects of New York's Welfare Reform Act of August 4, 1997 (hereinafter "WRA").² The Act's purpose was to eliminate Medicaid coverage for many legal immigrants.³ The plaintiffs alleged that the defendant's policy of denying Medicaid benefits based on the status of an individual as an immigrant is unlawful.⁴ Particularly, the "[p]laintiffs claim that Social Services Law Section 122⁵ violates their constitutional rights under section One⁶ and Three⁷ of Article XVII of the New

¹ 694 N.Y.S. 2d 308 (N.Y. Sup. Ct. May. 17, 1999).

² Welfare Reform Act of 1996, § 122, N.Y. SOC. SERV. LAW (McKinney 1999).

³ *Aliessa*, 694 N.Y.S. 2d at 309.

⁴ *Id.* at 311.

⁵ Welfare Reform Act of 1996, § 122 N.Y. SOC. SERV. LAW (McKinney 1999).

⁶ N.Y. CONST. art. XVII, § 1. states in pertinent part: "The aid, care and support of the needy are public concerns and shall be provided by the state and by such subdivisions, and in such manner and by such means, as the legislature may from time to time determine." *Id.*

⁷ N.Y. CONST. art. XVII, § 3. States in pertinent part: "The protection and promotion of the health of the inhabitants of the state are matters of the state are matters of public concern and provisions therefor shall be made by the state and by such of its subdivisions and in such manner, and by such means as the legislature shall from time to time determine." *Id.*

York Constitution, and the equal protection clause of the United States⁸ and New York Constitutions.”⁹

The court concluded that the plaintiffs were entitled to declaratory judgment.¹⁰ Further, the court granted a permanent injunction ordering the defendant to reimburse the plaintiffs for expenses that would have been covered by Medicaid.¹¹ “Social Services Law Section 122 violates the equal protection clauses of the United States and New York State Constitutions”¹² as well as section One of Article XVII of the New York State Constitution.¹³

This was a class action brought by immigrant plaintiffs alleging that but for their immigration status they would have been entitled to Medicaid benefits.¹⁴ New York State Social Services Law Section 122, which is part of the New York State Welfare Reform Act of 1997, was enacted in response to the federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996.¹⁵ The federal provision no longer provides Medicaid to certain aliens, those who entered the United States on

⁸ U.S. CONST. amend. 14, § 1. “... nor deny to any person within its jurisdiction equal protection of the laws.” N.Y. CONST. art. 1, § 11 states in pertinent part: No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his civil rights by any person or by any firm, corporation, or institution, or by the state or agency or subdivision of the state.

Id.

¹⁰ *Aliessa*, 694 N.Y.S.2d 315.

¹¹ *Id.*

¹² *Id.* at 314.

¹³ *Id.*

¹⁴ *Id.* at 309.

¹⁵ .Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat 2105. States in pertinent part:

A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) only through the enactment of a State law after the date of the enactment of this Act which affirmatively provides for such eligibility.

Id.

or after August 22, 1996.¹⁶ Section 122 provides that eligibility for Medicaid depends on whether the alien is qualified under the PRWORA and if the alien entered the United States on or after August 22, 1996.¹⁷ Further, aliens who are not qualified for Medicaid are only entitled to coverage that is necessary to treat an emergency medical condition.¹⁸

None of the plaintiffs met the requirements of Section 122.¹⁹ Although each plaintiff had a serious medical condition and the Medicaid program's financial eligibility requirements were met,²⁰ they still were denied Medicaid benefits based on their immigration status.²¹

The plaintiffs argued that the New York Statute²² should be interpreted according to the "strict scrutiny" analysis, while the defendant contends that a "rational basis" analysis is correct and should be used in interpreting the statute.²³ The Supreme Court held "[a]liens as a class are a prime example of a 'discrete and insular' minority for whom such heightened judicial solicitude is appropriate."²⁴ Moreover, the Court concluded that close judicial scrutiny should be employed when classifications are based on nationality or race²⁵ even though the Supreme Court, when

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 311.

²⁰ *Id.*

²¹ *Id.*

²² See, e.g. *Welfare Reform- Treatment of Legal Immigrants—Congress Authorizes States To Deny Public Benefits To Noncitizens And Exclude Legal Immigrants From Federal Aid Programs.—Personal Responsibility And Work Opportunity Reconciliation Act Of 1996*, Pub. L. No. 104-193, 110 Stat. 2105., 110 HARV. L. REV. 1991, 1992 (1997) ("state laws that deny welfare benefits to legal immigrants undergo a strict judicial scrutiny, federal laws that bar welfare benefits to legal immigrants have been reviewed under the more deferential "rational basis test.").

²³ *Id.* at *3.

²⁴ *United States v. Carolene Prods. Co.* 304 U.S. 144 (1938).

²⁵ *Graham v. Richardson* 403 U.S. 365, 370 (1971). The Court held that state welfare laws which condition benefits on citizenship and duration of residency violate the equal protection clause of the Fourteenth Amendment. These decisions have established that classifications based on alienage, like those

reviewing a federal statute involving “public assistance to aliens,” applied the rational basis test.²⁶ The Court concluded that there is a distinct difference between the limits the Constitution places on state power and the power the Constitution grants to the federal government.²⁷ Further, a State that uses suspect classifications must bear a “heavy burden of justification” in order for the classification to be constitutional.²⁸

The defendants offered three main contentions. Defendants first argued that in order to provide benefits to aliens who are no longer qualified under the federal program, the State would be required to fully fund²⁹ the Medicaid program.³⁰ The State argued that a substantial financial burden would be placed on the State.³¹ Further, the State contends that this would result in a reduction of benefits as well as an increase in taxes to increase revenues to fund the Medicaid benefits.³² Second, the State contended that it is meeting its obligation to the needy who are not being covered by Medicaid through other programs or through “emergency” Medicaid benefits.³³ Finally the State also contended that the eligibility of public assistance to aliens is based on federal classifications and is the least restrictive means to achieve government policy.³⁴

based on nationality or race, are inherently suspect and subject to close judicial scrutiny. *Id.*

²⁶ *Mathews v. Diaz*, 426 U.S. 67 (1976).

²⁷ *Id.* The court concluded that state powers and federal powers under the Fourteenth Amendment concerning “immigration and naturalization” are substantially different and therefore the fact that the Court used a rational basis analysis to review federal provisions and strict scrutiny to review state provisions was not unwarranted. *Id.*

²⁸ *In re Griffiths*, 413 U.S. 717, 721 (1973) (holding that a State which adopts a suspect classification bears a heavy burden of justification).

²⁹ *Id.* at *5. According to the defendant, the Federal government contributes 50% of the funding for eligible individuals.

³⁰ *Aliessa*, 694 N.Y.S 2d at 313.

³¹ *Id.*

³² *Id.*

³³ *Id.* at 315.

³⁴ *Id.* at 313.

The court found that limited resources were not a justification for denying public assistance.³⁵ Moreover, the court concluded that the equal protection clause protects aliens as well as citizens.³⁶ Further, fiscal integrity is not a compelling justification for the use of questionable classifications.³⁷

The court refused to accept the defendants' argument that the needy who are not entitled to Medicaid benefits, were being provided for through other programs.³⁸ The New York State Constitution mandates that assistance for the needy is "... not a matter of legislative grace."³⁹ Further, the legislature⁴⁰ must base aid to needy individuals solely on the basis of need and may not refuse aid on any other criteria.⁴¹ This court concluded that emergency medical benefits are not sufficient help for the needy that have chronic illnesses.⁴² Therefore, since chronic needy individuals are being denied benefits, it is a violation of Article XVII, Section 1 of the Constitution.⁴³

Although, the State has chosen to follow the federal classification in determining the eligibility of aliens in need of public assistance,⁴⁴ Congress lacks the power to authorize individual states to create laws or classifications that violate the Equal Protection Clause.⁴⁵ Therefore, a state can not hide "...behind the policy expressed by Congress in the PRWORA when met with an equal protection challenge to a state statute that

³⁵ *Id.* at 312.

³⁶ *Graham*, 403 U.S. at 372.

³⁷ *Id.*

³⁸ *Aliessa*, 694 N.Y.S. 2d at 315.

³⁹ *Tucker v. Toia*, 43 N.Y.2d 1, 371 N.E. 2d 449, 400 N.Y.S. 2d 728

⁴⁰ Welfare Reform Act of 1996 Section 363, N.Y. SOC. SERV. LAW (McKinney 1992). This section provides in pertinent part "... Medical Assistance for Needy Persons ..." is "... declared to be a matter of public concern and a necessity in promoting the public health and for promoting the state's goal of making available to everyone, regardless of race, age, national origin, or economic standing, uniform, high-quality medical care." *Id.*

⁴¹ *Aliessa*, 694 N.Y.S. 2d at 315.

⁴² *Id.*

⁴³ *See supra* note 6.

⁴⁴ *Id.* at 313.

⁴⁵ *Graham*, 403 U.S. at 380.

discriminates against many legal immigrants and places vital public assistance benefits beyond their reach.”⁴⁶

In sum, Congress is prohibited from passing laws that allow or authorize states to water-down the equal protection clause.⁴⁷ Congress, in the exercise of its power over both naturalization and immigration, may make distinctions between citizens and non-citizens.⁴⁸ Congress has power⁴⁹ to determine who shall be admitted into the United States,⁵⁰ how long they may remain and the “. . . conditions of their naturalization.”⁵¹ However, a state may not deny welfare benefits to legal immigrants without violation of the Equal Protection Clause.⁵²

Therefore, Social Services Law Section 122 is in violation of the equal protection clause of both the United States and New York State Constitutions because the state may not refuse aid to certain individuals based upon a criteria other than need.

Christopher Vatter

⁴⁶ *Aliessa*, 694 N.Y.S. 2d 314.

⁴⁷ *Id.* at 315.

⁴⁸ *Welfare Reform*, 110 HARV. L. REV. at 1193.

⁴⁹ *Id.* (Congress and the executive branch have the authority to regulate immigration and foreign policy).

⁵⁰ *See Mathews v. Diaz*, 426 U.S. 67 (1976) The Court concluded that whether legal aliens received public benefits was a Congressional matter.

⁵¹ *Id.*

⁵² *See, e.g., Welfare Reform*, 110 HARV. L. REV. 1191, 1193 (1987). *See also* *Graham v. Richardson*, 403 U.S. 362 (1971).