



IMPORTANT UPDATE

LAWSUIT RULING EXPECTED SOON YOUR HELP IS NEEDED!

*Thanks so much for your generous support in 2007.
The following is a brief description of the lawsuit against Medicare.*

- 1) In late 2007, Schlagel, Gordon, & Kinzer, the attorneys hired by the four plaintiffs, reported that a request for relief had been rejected in the last appellate phase of years of administrative hearings intended to reverse the arbitrary and capricious decision of the Department of Health and Human Services (HHS) to preclude HIV infected adults from receiving IVIG. Given the internal administrative efforts of HHS to save costs, the lawyers expected this decision. The decision, however, constituted final agency action which allowed the attorneys to begin the process of challenging the agency action in a new forum, namely federal court.
- 2) During the summer of 2007, Fight Back KC, a fundraising group developed to help the four plaintiffs in their fight, held a series of small events to raise money. In late fall 2007, the group culminated its fundraising efforts with a barbecue. Through your generous support, we were able to cover the initial costs associated with the litigation.
- 3) In early 2008, at the request of Schlagel Gordon, & Kinzer, the plaintiffs hired as co-counsel the Polsinelli Shalton Flanigan Suelthaus, PC Law Firm to assist in the representation as the Polsinelli firm has extensive expertise in appellate litigation associated with challenging final agency HHS action.
- 4) The litigation team prepared the appropriate petitions, began the filing process, and have worked together to fend off the litany of challenges that HHS has mounted against the plaintiffs with the hopes of having the lawsuit dismissed. Multiple briefs and reply briefs have been necessary at the early phase of the case as HHS is using their unlimited resources in an attempt to have this very important lawsuit dismissed based upon administrative guideline arguments with the hope that the merits of the case will not see the light of day.
- 5) As you are all aware, the litigation undertaken by these plaintiffs in this matter may well shape the future for all adult HIV infected patients with a need for IVIG in this region, and throughout the country, such that it is imperative that we continue to move forward with the publicity and legal campaign waged to date. Fight Back KC is asking for your help in paying the ongoing legal costs incurred this year. The present legal fees amount to approximately \$18,000 and need to be paid to the law firms who have undertaken the litigation to enable them to proceed.

How Can You Help?

Please check out our website --- FightBackKC.org.
We'll have updated information on the lawsuit and fundraisers.

Please volunteer. Throughout the summer and fall 2008,
FightBackKC will have several fundraisers. We can always use your help and support.

Please donate money. Many people have received their economic stimulus check.
If 500 people donated \$20, we could raise \$10,000. Please make out checks to Fight Back KC
and send to Nemecheck Health Renewal, 4010 Washington, Suite 500, Kansas City, MO 64111.
Check our web-site for online payment options.