



SWLC's Executive Director Jane Wishner and Board President Antoinette Sedillo Lopez were recently elected to membership in the New Mexico Women's Forum. The New Mexico Forum is a chapter of the International Women's Forum, an organization of women worldwide who have distinguished themselves in government, business, science, the medical and legal professions and the arts.

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SWLC's Health Care Reform Project in Full Swing

Federal health care reform is expected to cover over 300,000 New Mexicans who are currently uninsured. This is a critical issue for women. New Mexico has the second highest rate of uninsured women in the country at 28%. Moreover, women's health issues permeate every aspect of the new federal health care reform law and create opportunities, and obstacles in some cases, for women to access reproductive health services. SWLC's work can be easily summarized: to maximize health care coverage for women and to maximize health care services available to women. We are working to ensure that federal health care reform implementation in New Mexico:

- (i) Maximizes the ability of adolescent and adult women to obtain comprehensive reproductive health services and information, including family planning, abortion, and maternal health services (*reproductive health services*);
- (ii) Provides adequate patient education and consumer protections that will maximize women's access to health coverage, address women's unique health care needs, address the socioeconomic situation of low and middle income women in vulnerable communities; and operate in culturally competent ways (*consumer education and protection*); and
- (iii) Promotes and protects programs and funding (such as Title X family planning funding and other primary care funding for community health centers) that will provide a critical safety net for women who are at risk for remaining uninsured, including low-income women who move in and out of the workforce, who move to escape abusive relationships, who will not be able to afford coverage even with new federal subsidies, or who are immigrants not eligible for Medicaid or private insurance subsidies (*the uninsured safety net*).

This issue of our Newsletter highlights some of SWLC's work to promote women's health under health care reform.

SWLC Mission

Create opportunities for women to realize their full economic & personal potential by:

- Eliminating gender bias, discrimination and harassment
- Lifting women and their families out of poverty
- Ensuring that all women have full control over their reproductive lives through access to comprehensive reproductive health services and information

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Letter from the President



Some people have told me that they don't see the need for a women's legal organization any more. "Haven't women arrived?" they ask. My response is yes, women have come a long way, however, women and girls still lag behind men in income and they don't always have the same opportunities in education, employment, sports and the arts. And, the "mommy track" that women face when they decide to put their families first can have significant implications for them in the event that the relationship does not work out and they face becoming single and/or divorced mothers. Women's reproductive health issues are very important to address and protect and violence within the home has not ended. Poverty has affected women and children disproportionately. I am sure that the Southwest Women's Law Center Executive Director Jane Wishner will be the first to tell you that there is a lot more work that could be done if we had more resources. Indeed, while everyone thinks about Title IX as mandating opportunities for girls in sports, it really addresses all educational opportunities for girls. SWLC continues to be a vibrant and important resource in our community on women and girls' issues. This newsletter describes numerous actions taken by the Center in the last six months to promote women's health and increase access to health care as New Mexico implements health care reform. In addition, SWLC:

- advocated successfully for continued state coverage of emergency contraception over-the-counter in the State Medicaid program;
- created a map of the availability of birth control in government-supported programs in New Mexico, which will be a significant building block as health care reform is implemented;
- continued to meet with legislators and the NM Activities Association to ensure effective implementation of the Title IX reporting law that was passed in 2009 to ensure that girls and boys in NM schools have equal opportunities to participate in sports;
- testified and submitted formal comments to urge the Department of Workforce Solutions to adopt regulations to protect domestic abuse survivors who are covered by a new law giving them time off from work to participate in court proceedings in the aftermath of the abuse

We need organizations like the SWLC to provide leadership and call attention to opportunities and equity for women and girls. We are so very grateful for the support you have provided to the Center. Please call us if you would like to offer your assistance in time or treasure and/or if you have ideas for the Center.

Warmly,

Antoinette Sedillo Lopez
President

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Promoting Financial Independence for Victims of Domestic Abuse Act

As an appointed member of the Governor's Domestic Violence Leadership Commission, SWLC worked closely with Sharon Pino, the Governor's Domestic Violence Policy Advisor and the New Mexico Coalition Against Domestic Violence to ensure the passage of the Promoting Financial Independence for Victims of Domestic Abuse Act which went into effect on July 1, 2009. The Act enables victims of domestic violence to take time off of work to seek treatment and to pursue their legal rights. The Act, now codified at N.M.S.A. § 50-4A-1, et. seq., provides the following benefits:

- Intermittent paid or unpaid leave time for up to 14 days a year for an employee to get an order of protection, meet with law enforcement officials, district attorney's victim advocates or attorneys, or to attend court proceedings;
- Protection from employer retaliation against an employee for exercising their rights under the Act;

- Verification of the need for leave can be provided by one of the following: a police report, a copy of an order of protection or other court order, or a written statement from an attorney, district attorney's victim advocate, or law enforcement official;
- Confidentiality. An employer can disclose an employee's information related to domestic abuse leave only when the employee consents or as required by court order or state or federal law.

The Act is an important step forward in the fight to provide survivors of domestic abuse with the tools they need to maintain their daily lives. SWLC testified earlier this year before the Department of Workforce Solutions, urging it to adopt strong regulations to protect survivors. SWLC will continue to provide training and advocacy to increase economic self-sufficiency for survivors of domestic violence across New Mexico.

Title IX is 39! You're invited to the birthday party!

SWLC is throwing a birthday party for Title IX, the federal law that provides equity to girls in schools and sport opportunities.

Join us for the party at the New Mexico State Capitol in Santa Fe on January 25, 2010 at 10:30 am to celebrate Title IX and the first year of reporting for New Mexico's School Athletics Equity Act. We will be holding a press conference with some of the state's most prominent female athletes on the importance of Title IX and our new reporting law, followed by a celebration. Stay tuned for more details as this important date arrives!

Congratulations to SWLC's Reproductive Justice and Health Law Fellow Kyle Marie Stock!



SWLC is proud to announce that on September 20, 2010, Ms. Stock was sworn into the New Mexico State Bar. Kyle joined SWLC this summer as the recipient of the two-year George M. Fleming Fellowship in Health Law from the University of Texas School of Law, where she graduated in May 2010. She is very busy with outreach and education about health care reform on behalf of SWLC, and has already given several presentations around the state on the impact of

health care reform on breast and cervical cancer diagnosis and treatment, as well as the impact of health care reform on disability and employment. SWLC is grateful for Kyle and her expertise, and we look to benefiting from her work and contribution as state and federal implementation rapidly approaches.

SWLC Takes Lead on Advocating for Effective Patient Education and Consumer Protection in Health Care Reform

SWLC has spearheaded consumer education and protection advocacy efforts related to implementation of federal health care reform (“HCR”) in New Mexico. As part of its consumer advocacy, SWLC is urging state policy makers to address the circumstances of low- and middle-income women in our state. Women have much higher rates of poverty than men in New Mexico, move in and out of the workforce more frequently than men to care for children and other family members, and accordingly will likely move in and out of eligibility for Medicaid, private insurance subsidies and employer-based health coverage.

In 2010, the New Mexico Legislature created a government work group called the “SJM 1 Work Group” after a Senate Joint Memorial of the same name to develop plans and recommendations for implementing federal health care reform legislation

in New Mexico. At the first meeting in April 2010, SWLC’s Executive Director Jane Wishner testified about the need for New Mexico to develop a strong consumer education and protection system to realize the potential of the new law.

The chair of the SJM 1 Work Group subsequently asked Ms. Wishner to organize an advisory group on consumer education and protection that would make recommendations to the SJM 1 Task Force. During the summer, Human Services Department Secretary Katie Falls, who chairs the Governor’s Executive Leadership Team on federal health care reform, also asked Ms. Wishner to present recommendations to the Governor’s leadership team, many of which were incorporated into the State’s Strategic Plan on HCR implementation.

Ms. Wishner organized and led the Advisory Group on Consumer Education and Protection. She was joined by colleagues from Health Action New Mexico, New Mexico Legal Aid, the Senior Citizens Law Office, representatives from the New Mexico Division of Insurance, and the Consumer Protection Division of the New Mexico Attorney General’s Office. The group met numerous times and prepared a several page report on consumer education and protection under HCR in New Mexico. A copy of the report is available on SWLC’s website. This fall, Ms. Wishner testified before both the SJM 1 Work Group and the Legislative Health and Human Services Committee on consumer education and protection.

SWLC will continue to focus its patient/consumer advocacy efforts around the most vulnerable women in New Mexico to help ensure that they realize the benefits of the new law.

Jane Wishner (center row, first on left) is a member of the National Advisory Board to Raising Women’s Voices for the Healthcare We all Need.

This is a picture of the national advisory board, national staff and regional coordinators who met in Washington, D.C. In September to develop strategies for effective implementation of health care reform.



Health Care Reform Increases Access to Preventive Services

Federal health care reform provides many new benefits to patients. A portion of these reforms went into effect in late September of this year. These new benefits range from abolishing lifetime limits on insurance coverage to providing certain preventive services without any out-of-pocket expenses to the patient.

Under health care reform, all new insurance plans are required to cover preventive health services without charging the patient a co-payment or requiring them to first reach their deductible. Access to these preventive services is particularly good news for women. The required services include basic health care that many women need on a regular basis and may go without because of cost.

Services that should be provided without additional costs to women include:

- Breast Cancer Mammography screenings every 1 to 2 years for women over 40
- Cervical Cancer screening for sexually active women
- Chlamydia Infection screening for younger women and other women at higher risk
- Gonorrhea screening for all women at higher risk
- Osteoporosis screening for women over age 60 depending on risk factors

- Syphilis screening for all pregnant women or other women at increased risk

Better access to mammography and cervical cancer screening are especially critical. Early diagnosis often improves the likelihood of a positive outcome for patients. These new protections will be phased in over time because some insurance plans, called grandfathered plans, will initially be exempt from the new rules.

One important service that is not currently included under the preventive services provision is contraception. The Southwest Women's Law Center and other women's and public health advocates around the country believe that contraception must be included in the services covered under the law.

Including contraception among the preventive services covered would be a smart investment and help reduce the number of unintended pregnancies and abortions in the United States. The Health Resources and Services Administration (a division of the U.S. Department of Health and Human Services) will issue the final rules in 2011 about what, if any, additional services will be covered. SWLC provided comments to the U.S. Department of Health and Human Services this fall and will continue to advocate for the inclusion of contraceptives in the definition of preventive services.

SWLC Urges New Mexico Medicaid Program to Strengthen Family Planning Services

The recent federal reforms have impacted many areas of the health care system. The new law affects aspects of the private insurance market as well as parts of public benefits programs such as Medicaid. The recently enacted health reform law also changes the way states are able to provide family planning services to low-income individuals. SWLC has urged New Mexico to take advantage of this opportunity.

Under both the current and previous law, the federal and state governments work together to fund and administer the Medicaid program. However, the federal government has the authority to establish specific requirements that states must follow. In addition to these requirements, the federal government

may waive portions of the rules to allow states to serve more individuals.

One such waiver allows a state to provide individuals within a certain income range with family planning and related services. This is referred to as a "family planning waiver". The federal government often takes an extended period of time to approve a family planning waiver and the approval lasts for a maximum of three years. In addition, a state must show that the program does not cost more than it saves and the state has periodic reporting requirements.

The new health care reform law allows states to submit a "State Plan Amendment" for family planning services." A state plan amendment

allows for a permanent change in a state's Medicaid program. This means that a state can provide family planning and related services to more low income individuals without the cumbersome reporting requirements of a waiver. It also means that a state would no longer have to repeatedly apply for permission to provide services. In addition, under a state plan amendment, a state is expected to provide services to men as well as women. A state plan amendment also requires that a state cover a broader range of services including sexually transmitted disease treatment.

SWLC will continue to urge New Mexico to increase access to family planning services under its Medicaid program.

IN THE COURTS



Victory in Case Joined by the Southwest Women's Law Center

Victory for a Sexually Assaulted Convenience Store Employee Falsely Accused of Theft.

Reedy v. Evanson, 615 F.3d 197 (3d Cir. 2010)

Sara Reedy, a 19 year-old convenience store clerk, was sexually assaulted at gunpoint by a serial sex offender who also stole money from the cash register. She reported the crime and the detective treated Ms. Reedy from the beginning of the investigation as a perpetrator, charging her with false reporting and the theft on

the very same day he received information of a similar sexual assault and robbery committed by a serial rapist. The detective had also previously tested the blood samples from Ms. Reedy's rape kit for intoxicants without her permission, in an effort to label her a drug addict. The charges were dropped when the rapist admitted to sexually assaulting Ms. Reedy and committing the theft, after Ms. Reedy had already served five days in jail. She brought a lawsuit against the detective and police department claiming that her civil rights were violated. The U.S. District Court for the Western District of Pennsylvania ruled against Ms. Reedy, holding that the detective had probable cause to believe she had committed the crimes.

The District Court ruled for the police department, relying on the following factors erroneously based in stereotypes about sexual assault victims: Ms. Reedy's testimony reflecting the exact time of the robbery was suspicious because she could not have been thinking clearly; her failure to hit a panic button under gunpoint did not show enough resistance against her attacker; and her refusal of counseling services on the grounds that she had previously been sexually abused and had the tools to handle the trauma was not credible. The case was appealed to the Third Circuit Court of Appeals. In 2008, SWLC joined an amicus brief in support of Ms. Reedy prepared by our colleagues at the Women's Law Project, another regional women's law center, and Legal Momentum, a national women's rights organization. On August 2, 2010, the Third Circuit Court of Appeals reversed the District Court's grant of summary judgment, and remanded the case for a trial on the merits of Ms. Reedy's Fourth Amendment, false imprisonment, and malicious prosecution claims. The Court held that the District Court had relied on outdated myths about victims of sexual assault and that the detective plainly ignored exculpatory evidence. The Third Circuit's opinion is a step towards ridding the criminal justice system of harmful gender-biased myths that prevent victims of sexual assault from obtaining civil and criminal justice.

The Southwest Women's Law Center has joined an increasing number of amicus, or "friend of the court" briefs, in cases throughout the country that raise important women's rights issues.

Different Standard for Gaining Citizenship from Single Parent Mothers vs. Fathers.

Ruben Flores-Villar v. United States of America, No. 09-5801 (Appeal to the United States Supreme Court)

Ruben Flores-Villar was born in Mexico, but was raised by his U.S. citizen father and grandmother in California. His mother was Mexican, and his parents never married. As an adult, Mr. Flores-Villar argued against deportation by claiming American citizenship. He lost in the U.S. District Court for the Southern District of California under a section of the Immigration and Naturalization Act that spelled out different requirements for unmarried mothers and fathers whose children were born abroad. Under the law, fathers could give citizenship to their children only if they had lived in the U.S. for ten years before the child was born, and the father was older than 14 for five of the ten years. Therefore, fathers who were under 19 at the time of the birth of their child were automatically ineligible, while mothers of any age were only required to have lived in the U.S. a year before the birth of the child. Mr. Flores-Villar's father was 16 when he was born, so he was unable to claim citizenship. He brought a due process challenge under the Fifth Amendment on the grounds that unmarried United States citizen mothers are treated differently from unmarried United States citizen fathers.

The Ninth Circuit Court of Appeals affirmed the District Court and upheld the law, holding that the residence differential was directly related to upholding the government's interest in preventing state-less children because the one-year period for unwed citizen mothers ensured that the child had a nationality at birth. The Court opined that "Unlike an unwed mother, there is no assurance that the father and his biological child will ever meet, or have the kind of contact from which there is a chance for a meaningful relationship to develop". SWLC joined colleagues at the California Women's Law Center, Legal Momentum, and Legal Voice in a brief drafted by the National Women's Law Center, arguing that a better regulation would apply the same one-year residency requirement to all unmarried citizen parents, thus protecting against statelessness for children while ceasing to perpetuate the stereotype that unmarried fathers always have less meaningful relationships with their children than unmarried mothers.



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Why Does New Mexico Need a Women's Law Center?

- One in three New Mexican women will experience domestic abuse in their lifetimes
- One in four New Mexican women will experience sexual assault
- New Mexico has the highest teen pregnancy rate in the U.S.
- New Mexico has the 2nd highest rate of uninsured women in the country
- New Mexico has the 7th highest rate of women living in poverty in the U.S., and the poverty rate for women in New Mexico is nearly 30% higher than the poverty rate for men

The Southwest Women's Law Center also recognizes that for women of color, these rates are even worse and are part of larger systemic problems that need systemic solutions. We believe that these facts can and must change. SWLC strives to harness the power of law, research, and creative collaborations to change these realities and to create greater opportunities for women and girls in New Mexico to fulfill their personal and economic potential.

BECOME A SUPPORTER!

Send your tax-deductible contribution to:
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