

# State of Connecticut

RICHARD BLUMENTHAL  
ATTORNEY GENERAL



Hartford

July 28, 2009

The Honorable M. Jodi Rell, Governor  
The Honorable Donald Williams, Senate President Pro Tempore  
The Honorable Christopher Donovan, Speaker of the House  
State Capitol  
Hartford, CT 06106

Dear Governor Rell, Senator Williams, Speaker Donovan:

I have been made aware of proposals that would eliminate or restrict the scope of the State Medical Assistance for Non-Citizens (SMANC) program. As I have stated previously, the elimination or restriction of this program would raise significant constitutional issues and concerns.

The SMANC program provides critical medical assistance to legal non-citizens -- the people who are lawful and documented -- during their first five years of residence in the United States. The same type of medical assistance is provided to similarly-situated citizens through Medicaid, HUSKY Part A and HUSKY Part B. I stated in my opinion of February 24, 2004 that the elimination of SMANC is not clearly unconstitutional but I advised in my legislative testimony that year that the elimination of SMANC would raise serious constitutional issues in litigation, and the outcome could not be predicted with certainty.

After my 2004 opinion and testimony, the Maryland Court of Appeals -- Maryland's highest state court -- issued a decision stating that the elimination of a state funded medical assistance program to aliens was unconstitutional because a federal program -- similar to Medicaid and HUSKY -- provided the same type of medical assistance to citizens. The elimination of the program was deemed to be a violation of the equal protection rights of legal aliens. *Ehrlich v. Perez*, 394 Md. 691, 908 A.2d 1220 (2006).

My duty is to defend the laws approved by the legislature and signed by the Governor when they are challenged, and I will do so here if the SMANC program is eliminated. Equally important, I have a duty to advise you of impending constitutional questions -- including these serious issues that existed in 2004, and persist today with equal or greater force. If anything, their resolution is perhaps more difficult to predict now.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Blumenthal".

RICHARD BLUMENTHAL