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PUBLISHED: JUNE 17, 2020

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Husch Blackwell Clears Way for Medicaid Ballot Initiative

Husch Blackwell successfully intervened in two lawsuits and secured placement on the August ballot for an initiative petition to expand eligibility of Medicaid in Missouri.

The plaintiffs had challenged the legality of the Missouri Secretary of State Jay Ashcroft's certification as sufficient of an initiative petition proposing a constitutional amendment, which would be placed on the ballot for the August 4, 2020 primary election.

The proposed amendment would adopt the expansion of the federal Medicaid program for Missouri residents.

In late May 2020, two petitions for declaratory judgment and injunctive relief were filed in Missouri state court against the Secretary of State seeking to reverse certification alleging that the proposed measure "is facially unconstitutional because it appropriates money without creating or providing for any new revenues in violation of Article III, Section 51, of the Missouri Constitution" and that it "fails to set forth the full and correct text of the measure." On June 2, one day after hearing arguments, the Missouri state court concluded that the plaintiffs' pre-election challenges under Article III, Section 51, were not ripe. Plaintiffs filed an appeal the following day.

In affirming the lower court's decision, the Missouri Court of Appeals found that none of the pre-election challenges met the standard of law for such challenges, writing that "[t]he circuit court properly concluded that the Proposed Measure neither purported to appropriate existing funds nor implicated the Governor's role in the appropriation process. The circuit court also properly treated the Proposed Measure as an amendment to MO HealthNet's eligibility criteria, subject to the legislature's appropriation power."

“Although this decision was the result of about two years of work, because of statutory deadlines the final few weeks were incredibly hectic,” said Husch Blackwell partner Lowell Pearson. “The litigation had to be completed, including the appeal, by June 9. Our team had three days to prepare the brief to the court of appeals, and that followed a whirlwind trial in the lower court that went from a filed complaint to a decision in less than two weeks.”

The Husch Blackwell team was led by Pearson and included Ryan Harding, Allee Barton, Carla Templeton and Susan Winkelman.