



[Back to Illegal immigrant goes to court for medical coverage](#)

Illegal immigrant goes to court for medical coverage

March 23, 2010

Donovan Vincent

A Toronto woman who has lived in Canada illegally for over a decade is seeking to overturn a federal decision blocking her from getting medical coverage here.

Lawyers representing Nell Toussaint are arguing in Federal Court that her Charter rights were violated when she was denied coverage last year under a program offered by Citizenship and Immigration Canada.

Toussaint, 40, came to Canada from Grenada in 1999 as a visitor for six months.

In 2005 she paid an immigration consultant \$1,000 in a bid to stay in Canada on humanitarian and compassionate grounds, but she couldn't continue the process because she ran out of cash. She launched a similar bid in 2008, but hasn't paid a \$550 application fee to the government.

She suffers a variety of ailments, including diabetes, kidney problems, fibroid tumours and blood clots, and hasn't been able to work for the past few years. She's unemployed and surviving on welfare payments from the province.

She owes nearly \$10,000 in medical bills to the Humber River Regional Hospital for a stay there last year.

"Last year I was in hospital five times for blood clots," Toussaint said Tuesday, adding she's been turned down at hospitals several times because she doesn't have a health card.

Her lawyer, Andrew Dekany, argued Tuesday the federal government is "authorized" to cover the medical expenses for "anyone subject to immigration jurisdiction who cannot pay those expenses on their own," adding that Toussaint is subject to such jurisdiction.

"She is destitute and has developed a number of serious medical conditions, at least partly because she has not had adequate access to health services," the court application says.

"Her health is at risk, with possible life-threatening consequences because of (her) inability to pay (for medical care)."

Toussaint applied for health coverage under Citizenship and Immigration Canada's Interim Federal Health Program.

But it only grants short-term essential medical benefits to "certain limited and specifically defined groups of persons on humanitarian grounds, the majority of whom are legally in Canada," according to a document filed in court by Marie-Louise Wcislo, a federal government lawyer.

Toussaint's application for coverage under the program was rejected in July, and that's the decision she's challenging through a judicial review.

Her lawyers argue she was turned down because of a "wrongful interpretation" of the authority behind the federal health coverage.

According to Wcislo's factum, it was only when Toussaint's health problems recently required medical attention, that she took any steps to attempt to legalize her illegal status in this country, and "facilitate her access" to the Canadian health care system.

Mr. Justice Russel Zinn reserved his decision in the matter.