

## FLORIDA MEDICAID PROGRAM NOT PROVIDING CHILDREN WITH FEDERALLY GUARANTEED RIGHTS TO MEDICAL AND DENTAL CARE, FEDERAL COURT FINDS

Today, federal Judge Adalberto Jordan found that Florida's 1.9 million children who depend on the Florida Medicaid program for their medical and dental care are not receiving the care required by federal law. In a 153-page opinion, following over 90 days of trial, the court found that the requirements that children receive preventative care have not been met when "approximately one-third of Florida children on Medicaid are not receiving the preventative medical care they are supposed to receive." In addition, "Children on Medicaid have not been provided the [federal] guarantee of access to care for treatment of conditions based on the [Agency for Health Care Administration] surveys showing serious shortages of specialist care for Medicaid." The Court found that "Children on Medicaid have to travel to other areas of the state and/or wait for several months to obtain care."

The Court also found violations of federal requirements with respect to dental care, where Florida ranks at the very bottom of all the states. "Based on the fact that 79% of the children enrolled in Medicaid are getting no [preventative] dental services at all," Florida is not in compliance with federal requirements.

With respect to both medical and dental care, the Court agreed with plaintiffs that the low reimbursement rates for doctors and dentists seeing Medicaid patients is "by far the most important factor," and held "that a sufficient increase in reimbursement rates will lead to a substantial increase in provider participation and a corresponding increase in access to care." Although the Court will conduct further hearing to determine the remedy that will be ordered, the Court noted that evidence at trial showed Medicaid rates needed to be increased to close to the level paid under the Medicare program.

The court also found violations of federal law occurring as a result of improper terminations of eligibility for children, switching of children from one provider to another without their parent's knowledge, and the failure to provide required outreach to inform eligible individuals of Medicaid services.

This decision occurs in a class action case brought on behalf of Florida children who depend on the Medicaid program, and by the Florida Chapter of the American Academy of Pediatrics, and the Florida Academy of Pediatric Dentistry. Dr. Tommy Schechtman, FCAAP President, stated: "This should help ensure that all children of Florida receive a healthy start." Dr. Louis St. Petery, FCAAP Executive Vice President, said "This is a great day for the children of Florida." Dr. Julie Russo, president of the Florida Academy of Pediatric Dentistry stated: "On behalf of all of the children in the state of Florida that have been denied dental care because of the insufficient reimbursement rates, we are pleased with this ruling and now have the federal support to move forward. It is a great day in Florida for children's access to dental care."

The lawsuit, which has required a decade to litigate, was brought by a team of lawyers from the Ft. Lauderdale office of Boies, Schiller and Flexner, led by partners Stuart Singer and Carl Goldfarb and including numerous other firm attorneys including Joshua Riley, Damien Marshall, Lauren Louis, Sashi Boruchow, Todd Thomas, Andres Idarraga, Pascual Oliu, and Aaron Marcus. The firm worked together with the Public Interest Law Center of Philadelphia's (PILCOP) James Eiseman, Jr., and Benjamin Geffen. Stuart Singer noted that "today's ruling was great holiday news for the lawyers who worked on the case but more importantly for the 1.9 million Florida children who depend on the Florida Medicaid program

for their medical and dental care.” Ben Geffen of PILCOP added: "Shortchanging medical and dental care for low-income children lets minor ailments grow into serious health problems. Today's decision will help protect the lifelong health of children on Medicaid."

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