

For Immediate Release

Tuesday, September 24, 2013

MIAMI--On September 20, 2013, the U.S. Court of Appeals for the Eleventh Circuit upheld a March 2012 ruling by Judge Joan Lenard on behalf of several Miami parents who had sued the Florida Medicaid agency when they were denied Medicaid coverage of Applied Behavioral Analysis (ABA), the one evidence-based proven and effective treatment for autism. The 11th Circuit affirmed the District Court's ruling that the state violated the Medicaid Act when it excluded coverage of ABA therapy that the children need. The court ordered the state to remove coverage restrictions and take steps needed to assure Medicaid coverage of ABA therapy moves forward.

The case was brought on behalf of three autistic Miami children, clients of Monica Vignes-Pitan, Advocacy Director of Legal Services of Greater Miami (LSGMI). According to lead counsel Miriam Harmatz of Florida Legal Services (FLS), "this case will have national impact because, while most states mandate that private insurance companies must cover ABA, most Medicaid programs do not provide coverage." The children's treating physicians explained the extreme disparity between the prognosis of privately insured children with autism, who receive ABA, and those on Medicaid, who do not.

The Florida Medicaid Agency's defense was that ABA was not coverable under the Medicaid Act and, even if it was, the Agency had decided it was "experimental" and therefore not medically necessary for anyone.

Betsy Havens, an Equal Justice Works Fellow sponsored by Greenberg Traurig and the Florida Bar Foundation, presented the Plaintiffs' rebuttal expert who cited to an abundance of high quality scientific literature and "laid to rest the outrageous claim that ABA is experimental."

Jane Perkins of the **National Health Law Program** co-counseled the appeal and stated, "The decision helps modernize Florida's Medicaid program and keep it in step with treatments that have proven to be effective for children in need."

Dan Unumb, Executive Director of Autism Speaks Legal Resource Center, led a consortium of autism advocates in support of the District Court ruling as *amici*, ("friends of the court".)

Greg Wallance of Kaye Scholer, represented the *amici curiae*. Neil Kodsí, provided trial expertise at the district court.

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