

On October 15, 2004, Judge Gladys Kessler ordered the District of Columbia Medicaid agency to take steps to improve its "abysmal" record of providing dental services to children. The Order stems from a motion by the plaintiffs to enforce the terms of the settlement in *Salazar v. District of Columbia*

which, among other things, requires the District to "provide or arrange for the provision of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services when they are requested by or on behalf of children" under age 21.

As noted by the Court, since the first *Salazar* opinion was issued in 1996, the Medicaid agency's own documents show that children's receipt of EPSDT dental services has actually gone down—from 26.6 percent in 1992 to 23.14 percent in 1999. And by 2003, that number had dropped even further to 19.8 percent. Over this time, the District had contracted with managed care organizations (MCOs), prepaying them to provide EPSDT dental services to child enrollees. The Court was also persuaded by a report from Dr. Henry T. Ireys, the court appointed monitor, which recommended that the Medicaid agency increase coordination with MCOs to better inform providers and patients about the need for and coverage of dental services through EPSDT and to develop a systemic approach for doing so.

For their part, the plaintiffs requested that the Court enter a set of detailed requirements for the District, given the history of non-compliance with the Court order. The Court agreed to many of the plaintiffs suggestions and ordered the District of Columbia to take a number of specific steps to address the problem, including:

- By February 15, 2005, develop a dental periodicity schedule which complies with the schedules for children under age 21 recommended by the American Dental Association and the American Academy of Pediatric Dentists, including the timing and content for appropriate oral risk health assessments, appropriate ages as to when children are to receive prophylaxes and fluoride treatment, and appropriate ages as to when children are to receive dental sealants. Within 45 days thereafter, distribute a provider bulletin explaining the schedule.

- By January 15, 2005 and annual on that date thereafter, the District, *not the managed care organizations*

shall develop and submit to the Court a corrective action plan (CAP) for ensuring that all EPSDT-eligible children receive dental services (with an interim report due by December 1, 2004). The corrective action plan shall address:

- *Provider participation*, including collaboration with local dental associations and community groups and the increased reimbursement rates and administrative streamlining for dental services that shall be implemented no later than October 15, 2005. As to each MCO, the CAP shall provide the name and contact information for participating dentists.

- *Training of providers*, including training and annual provider bulletins describing the importance of EPSDT and having a "dental home." With input from plaintiffs' counsel the bulletin will include discussion of the dental research findings, the provision of dental services to children with disabilities, information on baby bottle tooth decay.
- *Outreach*, to assist enrollees to make and keep EPSDT dental appointments, including incentive payments the Medicaid agency and/or MCOs will make to families of EPSDT-eligible children, including a dental inquiry hotline.
- *Goals and deadlines* are included in the order. For example, by September 30, 2007, the Medicaid agency will achieve the following final goals:
  - At least 80 percent of EPSDT children in the 6-12 and 12-24 months age categories receive an oral health screening by a primary care provider;
  - At least 85 percent of EPSDT-eligible children entering school programs for the first time receive an oral health screening by a licensed dentists;
  - At least 70 percent of all EPSDT-eligible 8-15 year-olds receive protective sealants on their permanent teeth;
  - At least 80 percent of EPSDT-eligible children 3 years old and older receive dental services as reported on the CMS Form 416 EPSDT reporting form.
- *Annual assessment*, by April 15, 2005 and annually thereafter, the Medicaid agency must submit a report for the previous year, by age-categories, that sets forth the number of EPSDT-eligible children who received the application of dental sealants, at least one periodic oral examination and prophylaxes, two or more periodic oral examinations and prophylaxes; orthodontic treatment; restorative care (fillings) on carious teeth; and treatment for baby bottle tooth decay.

*Salazar v. District of Columbia* is co-counseled by Terris, Pravlik & Millian; Lynn Cunningham, Esq.; and the National Health Law Program.