

In a victory for Medicaid beneficiaries, the Supreme Court ruled on January 14 that the provisions of a consent decree in a Medicaid case may be enforced against state officials. The case, *Frew v. Hawkins*, 540 U.S. ___, No. 02-628 (Jan. 14, 2003), developed out of a lawsuit filed on behalf of children eligible for Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services in Texas. The suit was originally filed in federal district court, where, in 1996, the parties entered into a consent decree. The decree ordered a comprehensive plan for implementing the EPSDT requirements. Two years after entry of the decree, the children returned to the district court, requesting that the court order the state officials to comply with some provisions in the decree that had not been followed. The state officials argued that Eleventh Amendment barred the plaintiffs from enforcing the decree in federal court. The district court rejected this argument and ordered the state to comply. The Court of Appeals for the Fifth Circuit reversed this decision, holding that the consent decree could only be enforced if the violations alleged constituted statutory violations of the Medicaid Act which imposed clear and binding obligations upon the state.

The Supreme Court, in a unanimous opinion authored by Justice Kennedy, rejected this reasoning. Observing that the decree is a federal court order which "springs from a federal dispute and furthers the objectives of federal law," the Court reasoned that enforcing the decree simply "vindicates an agreement that the state officials reached to comply with federal law." Slip Op. at 7. Thus, the Eleventh Amendment does not prevent the court from enforcing it. "Federal courts are not reduced to approving consent decrees and hoping for compliance." *Id.*, at 9. The Court did not address the plaintiffs' argument that the State had waived its Eleventh Amendment immunity by participating in negotiations and entering into the decree.

Advocates had been apprehensive that the Supreme Court would use this case to continue to chip away at the enforcement of the Medicaid law and laws creating federal benefits programs in general. However, the Court did not address the issue of the enforceability of the EPSDT statute.

This opinion is available on the Supreme Court's website, at <http://www.supremecourtus.gov/opinions/03pdf/02-628.pdf> . It can

also be found on Lexis at 2004 U.S. LEXIS 664.