

The federal district court for Massachusetts has allowed a number of Medicaid claims for dental services made by an organization and beneficiaries to proceed to trial. *Health Care for All, Inc. V. Romney*, No. 00-10833-RWZ (D. Mass. Oct. 1, 2004). The court held that a number of crucial statutory provisions were enforceable under Section 1983 including: (1) the right to receive care with "reasonable promptness;" (2) the right to care in equal "amount, duration and scope;" and (3) benefits under Medicaid's Early and Periodic Screening, Diagnosis and Treatment program. The court also held that the Medicaid provision requiring rates sufficient to attract adequate numbers of providers was not enforceable. In addition, the court held that the definition of EPSDT benefits was not enforceable, but allowed EPSDT claims to go forward under another statutory provision. As of October 18, the case is being tried. Counsel are Greater Boston Legal Services and Health Law Advocates.

In Ohio, the District Court ruled that Medicaid claims brought on behalf of two children with multiple disabilities were enforceable, however, it dismissed the Medicaid claims on other grounds. *A.M.H. v. Hayes*, No. C2-03-778 (S.D. Ohio 2004). The court held that the Medicaid statutory provisions requiring that services be provided with reasonable promptness and in comparable amount, duration and scope were enforceable. In addition, the provision mandating EPSDT coverage was held enforceable. In contrast, the provision requiring that care and services be provided in the best interests of recipients and those defining EPSDT and case management services were not. Despite finding certain provisions enforceable, however, the court dismissed all of the Medicaid claims because community based services are optional and are not even required by EPSDT. The case will proceed on ADA claims. Ohio Legal Rights Services are counsel on this case.