

(reprinted from the NHEP ~~Feb 15, Aug 2002~~ newsletter)

The Sixth and Fourth Circuits ~~Westside Mothers Appeal Have dismissed~~ judges Cleland and Niemeyer ~~claiming the Medicaid Act can~~

On May 15th, 2002, the ~~Westside Mothers~~ ~~dismissed~~ the decision. One week earlier, the Fourth Circuit had ~~also rejected~~

The *Westside Mothers* Decision

If it had been accepted by the Sixth Circuit, Judge Cleland's decision would have caused radical change

To reach this conclusion, Judge Cleland ~~State School and Hospital, 17 (1981) (Bessling, Spending Power 52)~~

The Sixth Circuit rejected ~~only~~ this holding: "[T]he Supreme Court has held that the power

The Sixth Circuit went on ~~to state~~ that private individuals ~~could~~ ~~enforce~~ the Medicaid Act against states

Finally, the Sixth Circuit ~~Westside Mothers~~ Medicaid beneficiaries ~~the specific Medicaid Act EPSDT provision~~

The Fourth Circuit Decision

On May 9th, 2002, the ~~Fourth Circuit~~ Court of Appeals ~~became~~ the decision ~~written by Judge Niemeyer.~~

Antrican involves Medicaid-eligible children in North Carolina who have been unable to c

After District Judge Malcolm M. McKeown rejected the state's motion to dismiss, the State Attorney General

The Fourth Circuit rejected *Ex parte Young*, finding the Attorney General's arguments unpersuasive. Notably, the circuit

The Fourth Circuit also rejected *Young* of other sovereign immunity claims, stating that the case can serve

The Court rejected this argument simply because the implementation of such prospective relief would

The state also argued that *Ex parte Young* was an ongoing violation (a state requirement of the immunity) because the plan

The Court found this argument "misreads the substance of the plaintiffs' complaint," which did not rest

The Attorney General next argued that the state has a special sovereignty interest in determining how its

The Court rejected this argument, saying: "North Carolina participates in the federal Medicaid program and, there

The Court also found *Ex parte Young* to be applicable to the state's program because the Medicaid Act "provides a

The National Health Law Program is co-counsel in the circuit case, along with the North Carolina Justice