

## Data Trends

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From the Research and Training Center for Children's Mental Health, Tampa, Florida...

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A significant legal decision handed down by the United States District Court for the District of Massachusetts on January, 26, 2006, reinforces the fact that under Medicaid's EPSDT requirements, states must make available any medical or remedial services for the maximum reduction of mental as well as physical disability, to restore an individual to their best possible functional level. In issuing his decision in Rosie D. class action law suit, Judge D. J. Ponsor declared that Massachusetts had violated two provisions of EPSDT: Failure to provide adequate services, particularly comprehensive assessments, care coordination, and in-home behavioral support services for children with serious emotional disturbances; and failure to provide services with "reasonable promptness."

The case was brought before the court by the Center for Public Representation of Northampton, MA, together with the law firm WilmerHale of Boston. The full decision issued by Judge Ponsor is available at:  
[http://pacer.mad.uscourts.gov/dc/opinions/ponzor/pdf/rosie mo.pdf](http://pacer.mad.uscourts.gov/dc/opinions/ponzor/pdf/rosie%20mo.pdf)

With regard to care coordination, the Court declared that, "The evidence established overwhelmingly that, for this particularly needy group, assessment and coordination is essential to (a) identify promptly a child suffering from a serious emotional disturbance, (b) assess comprehensively the nature of the child's disability, (c) develop an overarching treatment plan for the child, and (d) oversee implementation of this plan" (p. 6). The Court also indicated, with regard to in-home behavioral support services, that, "plaintiffs offered credible evidence that such services are a medical necessity for many SED children, particularly the roughly 15,000 Medicaid-eligible SED children in the Commonwealth who suffer extreme functional impairment" (p. 7).

Judge Ponsor indicated that within Massachusetts there were isolated programs that met the EPSDT requirements and were receiving positive results, such as the Massachusetts Mental Health Services Program for Youth and the Coordinated Family-Focused Care program. However, the programs were few and far between, and reaching very few of the children in need. Judge Ponsor noted that one of the ironies of the case is that within Massachusetts there are these programs that demonstrate that services can be provided in a more effective way, and that such an approach was affordable since it would reduce expenditures for institutionalization but still it was not being done.

Within Massachusetts, the next step is for the plaintiffs and the defendants to submit either a jointly agreed upon plan, or separate plans, to remedy the situation. These plans are due on or before February 17, 2006. The findings of the Court is expected to have implications beyond Massachusetts, as advocates in other states seek to expand the range of services available to children through Medicaid for children with serious emotional disturbances.

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