

# Verdicts & Settlements

## Suit says state Medicaid system withheld autism therapy

Federal statute mandates such treatment for eligible children, class action says

### Approval of benefits

On Dec. 17, 2010, plaintiffs Deanna Caver and Arlena Minder, on behalf of themselves and their minor children, filed a class-action suit against the state of Michigan, alleging that the state's Medicaid system was failing to make Applied Behavior Analysis therapy available to children on Medicaid assistance who have autism spectrum disorder.

On Sept. 30, 2011, Judge Stephen J. Murphy III, of the Eastern District of Michigan, certified the case as a class ac-

tion. On that same date, the court also denied the state's motion to dismiss on a variety of grounds.

The plaintiff families filed a motion for preliminary injunction, and then a motion for summary judgment, arguing that Michigan was required by the federal Medicaid statute to make ABA therapy

available to Medicaid-eligible children, because such therapy constituted early periodic screening diagnosis and testing. Following these motions, the parties discussed settlement and engaged in mediation.

After lengthy discussions, the parties settled the case, under which the state agreed to make ABA therapy an offered benefit under the Medicaid statute, and to

apply to the federal Centers for Medicare and Medicaid Services for matching benefits.

On March 28, 2013, CMS approved the state's plan to offer ABA and provide the federal share of benefits. As a result of the federal Medicaid contribution, the total ABA benefits that will be made available for ABA therapy for 2013 alone will equal \$52 million.



MANTESE



CONWAY

Type of action: Violation of statutory rights under 42 USC Section 1983

Name of case: *Minter, et al. v. Dazzo*

Court/Case no./Date: U.S. District Court, Eastern District of Michigan; 10-cv 15018; April 17, 2013

Tried before: Judge

Name of judge: Stephen J. Murphy III

Settlement: Approval of benefits worth

\$52 million

Most helpful experts: Dr. Ruth Anan, clinical psychology, Royal Oak; Dr. Lori Warner, clinical psychology, Royal Oak

Attorneys for plaintiff: David Honigman, Gerard Mantese, John J. Conway, David Hansma

Attorneys for defendant: William Morris, Darrin F. Fowler