

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

O.B. by and through his parents)		
GARLAND BURT and JULIE BURT ,)		
et al., individually and on behalf of a class,)		
)		15-CV-10463
Plaintiffs,)		
v.)		
)		
FELICIA F. NORWOOD , in her official)		Judge Charles P. Kocoras
capacity as Director of the Illinois)		
Department of Healthcare)		
and Family Services,)		
)		
Defendant.)		

PRELIMINARY INJUNCTION ORDER

This matter is now before the Court on the Motion for Preliminary Injunction [6] of Plaintiffs O.B., C.F., J.M., and S.M. (“Plaintiffs”), pursuant to Fed. R. Civ. P. 65. In furtherance of the Court’s Memorandum Opinion dated March 21, 2016 [36], the Court finds and orders as follows:

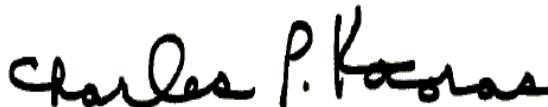
1. Plaintiffs have demonstrated a likelihood of success on the merits of Counts I and II of their Complaint [1], which allege that Defendant violated the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) provisions, 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(4)(B), and 1396a(a)(43)(C), and “reasonable promptness” provision, 42 U.S.C. § 1396a(a)(8), of the Medicaid Act.

2. It is undisputed that Defendant approved each named Plaintiff for EPSDT in-home shift nursing services based on medical necessity, and that such Plaintiffs are not receiving all such approved services.

3. Without injunctive relief, Plaintiffs and similarly situated Medicaid-eligible children (as defined in paragraph 28 of Plaintiffs’ Complaint and in paragraph A below) lack an adequate remedy at law and face irreparable injury by not receiving medically necessary in-home shift nursing services. The balance of equities and public interest favor Plaintiffs and such similarly situated Medicaid-eligible children, as the public has an interest in seeing care and treatment that Defendant has determined to be medically necessary provided.

IT IS HEREBY ORDERED THAT:

- A. Defendant Felicia F. Norwood shall take immediate and affirmative steps to arrange directly or through referral to appropriate agencies, organizations, or individuals, corrective treatment of in-home shift nursing services to Plaintiffs and such similarly situated Medicaid-eligible children under the age of 21 in the State of Illinois who also have been approved for in-home shift nursing services, but who are not receiving in-home shift nursing services at the level approved by Defendant, as required by the Medicaid Act.
- B. Defendant Felicia F. Norwood shall provide the following information to Plaintiffs within 30 days of the entry of this Order:
 - (1) what steps have been undertaken by Defendant to arrange for in-home shift nursing services to Plaintiffs and such similarly situated Medicaid-eligible children; and
 - (2) an identifying list of such similarly situated Medicaid-eligible children which contains (a) their currently approved level of in-home shift nursing care and (b) how much of their in-home shift nursing care was used or delivered during the preceding 90 days.
- C. This Court waives or excuses the filing of any security or bond by Plaintiffs and such similarly situated Medicaid-eligible children.
- D. This Order shall remain in effect pending final judgment in this action or until further order of Court.



Charles P. Kocoras
United States District Judge

Dated: April 6, 2016