This Fact Sheet summarizes the Medicaid Act’s Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit. It then provides a docket giving citation and annotation to published federal and state court cases.\(^1\) While occasionally mentioning procedural rulings, such as decisions on motions to dismiss or class certification, the docket focuses on substantive decisions affecting EPSDT.

**Overview of EPSDT**

EPSDT is a mandatory Medicaid service for children and youth under age 21. See 42 U.S.C. §§ 1396a(a)(10)(A), 1396a(a)(43), 1396d(a)(4)(B), 1396d(r). Forming the foundation of EPSDT, four separate screens are required: vision (including eyeglasses), hearing (including hearing aids), dental, and medical. The medical screen has five components: a comprehensive health and developmental history, unclothed physical examination, immunizations, laboratory testing (requiring 2 lead tests by age 3), and health education and anticipatory guidance. Screens must be provided according to periodicity schedules set by the state Medicaid agency in consultation with child health experts, and at other times as needed to determine whether a child has a condition that needs care. *I.d.* at § 1396d(r)(1)-(4).\(^2\)

State Medicaid agencies must effectively inform all Medicaid-eligible persons in the state who are under age 21 of the availability of EPSDT and its benefits. *I.d.* at § 1396a(a)(43)(A). This includes informing children with disabilities and providing appointment scheduling and transportation assistance. See 42 C.F.R. § 441.56.

The Medicaid Act also requires the state Medicaid agency to “arrang[e] for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment” that the

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child needs. 42 U.S.C. § 1396a(a)(43)(C). The Act prescribes a comprehensive scope of benefits and describes the medical necessity standard to be applied on an individual basis to determine a child’s treatment needs:

**Scope of benefits**: All mandatory and optional services that the state can cover under Medicaid, whether or not such services are covered for adults. *See* 42 U.S.C. § 1396d(a) (listing services).

**Medical necessity**: All “necessary health care, diagnostic services, treatment, and other measures . . . to correct or ameliorate defects and physical and mental illnesses and conditions . . .”

*See* 42 U.S.C. § 1396d(r)(5) (emphasis added). In sum, if a health care provider determines that a service is necessary, it should be covered to the extent needed. For example, if a child needs personal care services to ameliorate a behavioral health problem, EPSDT should cover those services to the extent the child needs them—even if the state places a quantitative limit on personal care services or does not cover them at all for adults. As stated by the U.S. Department of Health and Human Services Centers for Medicare & Medicaid Services (CMS),

> [t]he goal of EPSDT is to assure that individual children get the health care they need when they need it—the right care to the right child at the right time in the right setting.3

Over the years, families and children have gone to court to enforce the EPSDT requirements. Early cases focused on requiring Medicaid-participating states to put the benefit in place. Readers are referred to the following article for in depth explanation of EPSDT and its enforcement history: Jane Perkins & Sarah Somers, *Medicaid’s Gold Standard Coverage for Children and Youth: Past, Present, and Future*, 30 ANNALS OF HEALTH LAW AND LIFE SCIENCES 153 (2021).

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U.S. Supreme Court Cases:

**Frew ex rel. Frew v. Hawkins.** 540 U.S. 431 (2004) (enforcement of consent decree does not violate Eleventh Amendment), *on remand*, 401 F. Supp. 2d 619 (E.D. Tex. 2005) (refusing to dissolve consent decree in part because provider participation rates had decreased in recent years, with extensive discussion of CMS Form 416), *aff’d*, 457 F.3d 432 (5th Cir. 2006) (denying motion to dissolve decree because the “object of the consent decree is not mere compliance with federal law” but rather to “implement the Medicaid statute “in a highly detailed way”), *partial subsequent case history*: No. 21-40028, 2022 WL 135126 (5th Cir. Jan. 13, 2022) (affirming termination of the corrective action order, as well the dissolution of certain decree provisions requiring defendants to provide outreach and information regarding EPSDT); 820 F.3d 715 (5th Cir. 2016) (affirming dissolution of some decree provisions while reversing and remanding regarding provisions requiring defendant to address shortage of providers using an approach that compares the provider-to-class-member ratio with the average client load of the relevant type of provider, e.g. dentist), *on remand*, No. 3:93-CV-65, 2020 WL 1685159 (E.D. Tex. Apr. 7, 2020) (denying defendant’s motion to clarify and reinstate order vacating provisions of the corrective action order finding argument was contrary to instructions from the Fifth Circuit), *same case*, 5 F. Supp. 3d 845 (E.D. Tex. 2013), *aff’d*, 780 F.3d 320 (5th Cir. 2015) (finding substantial compliance with consent decree provisions and dissolving order requiring defendants to educate participating pharmacies about Medicaid and EPSDT prescription drug requirements) and **Frew v. Gilbert**, 109 F. Supp. 2d 579 (E.D. Tex. 2000) (concerning screening, informing, and reporting).

Federal Circuit Court Cases:

**B.K. by next friend Tinsley v. Snyder**, 922 F.3d 957 (9th Cir. 2019) (decertifying and remanding Medicaid subclass, stating that Medicaid does not support the argument that being at risk of not receiving services is a Medicaid violation), *on remand sub nom. Tinsley v. Faust*, 411 F. Supp. 3d 462, 473 (D. Ariz. 2019) (certifying Medicaid subclass in the foster care case where children allege that Arizona is failing to provide adequate behavioral health and therapeutic services, noting that the EPSDT “obligation is active, not passive” and the ultimate responsibility to ensure treatment remains with the state).

**A.R. by and through Root v. Sec. Fla. Agency for Health Care Admin.**, 769 Fed. App’x 718 (11th Cir. 2019) (finding EPSDT and ADA challenges to Florida’s provision of private duty nursing (PDN) services to medically fragile children moot after Florida changed policies through formal rulemaking to: (1) stop applying a convenience standard (that denied PDN services as merely for the convenience of the caretaker if the child’s parents were available to provide nursing services to the child); (2) ended prioritization of extended care center services (that limited PDN services to children who were unable to go to a care center that provided

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4Use of an asterisk (*) denotes a case where National Health Law Program staff have appeared as counsel.
out-of-home care for up to 12 hours a day, 7 days a week); (3) abolished caregiver preference (that decreased authorized PDN coverage as caregivers were taught skills to care for their child); and (4) addressed inconsistent application of Pre-Admission Screening and Resident Review (PASRR) screenings that resulted in denial of necessary services, including PDN care).

*O.B. v. Norwood*, 838 F. 3d 837 (7th Cir. 2016) (requiring state Medicaid agency to affirmatively arrange for in-home shift nursing services needed by children with medically complex conditions under EPSDT), aff’g 170 F. Supp. 3d 1186 (N.D. Ill. Mar. 21, 2016) (granting preliminary injunction enforcing EPSDT requirement to arrange for necessary in home shift nursing and denying motion to dismiss EPSDT and ADA/§ 504 claims; unpublished order extends injunction to include the ADA/§504 claims).

D.U. v. Rhoades, 825 F.3d 331 (7th Cir. 2016), aff’g., No. 13-cv-1457, 2015 WL 224932 (E.D. Wis. Jan. 15, 2015) (finding lack of evidence from treating providers for 70 hours of private duty nursing and refusing to enjoin state from reducing hours), later decision, 2018 WL 1010486 (E.D. Wis. Feb. 20, 2018) (holding defendant did not have sovereign immunity from suit and denying defendants’ motion for summary judgment because the record showed a genuine issue as to whether eight hours per day of private duty nursing care was medically necessary but rejecting D.U.’s argument that Wisconsin’s definition of “medically necessary” was narrower than the EPSDT program’s “correct or ameliorate” definition, finding that “medical necessity” is not explicitly defined in the Medicaid Act).

*John B. v. Emkes*, 710 F.3d 394 (6th Cir. 2013) (finding state in substantial compliance with EPSDT consent decree and dissolving injunction), aff’g, 852 F. Supp. 2d 957 and 852 F. Supp. 2d 944 (M.D. Tenn. 2012) (without comment finding 42 U.S.C. § 1396a(a)(43)(B)-(C) provisions enforceable under § 1983), prior history, 661 F. Supp. 2d 871 (M.D. Tenn. 2009) (denying defendants’ motion to vacate consent decree), rev’d in part sub nom. John B. v. Goetz, 626 F.3d 356 (6th Cir. 2010), on remand, 2011 WL 795019 (M.D. Tenn. Mar. 1, 2011) (refusing to vacate consent decree and finding 2010 congressional amendment of definition of “medical assistance” did not disturb the ability of state to provide payment only), additional case history: John B. v. Menke, 176 F. Supp. 2d 786 (M.D. Tenn. 2001) (holding managed care system did not adequately meet EPSDT mandates), enforcing, No. 3-98-0168 (M.D. Tenn. Feb. 25, 1998) (consent decree to implement multi-year remedial plan that included requirements for: (1) updating periodic screening requirements to identify medical and mental health problems; (2) developmental screening to include use of culturally sensitive assessments and avoidance of premature diagnosis labeling; (3) improving access to treatments, with attention to children who are medically fragile; and (4) integration of health care and custodial services for children in foster care) (additional case history omitted).

*K.G. ex rel. Garrido v. Dudek*, 864 F. Supp. 2d 1314 (S.D. Fla. 2012) (finding ABA therapy for children with autism is a rehabilitative service covered by the Medicaid Act and is not
experimental), aff’d in part and vacated and remanded in part, 731 F.3d 1152 (11th Cir. 2013) (finding district court did not abuse its discretion in issuing permanent injunction that overruled state’s determination that ABA was experimental), on remand, 981 F. Supp. 2d 1275 (S.D. Fla. 2013) (permanent injunction requiring Florida to pay for ABA), same case, 839 F. Supp. 2d 1254 (S.D. Fla. 2011) (preliminary injunction).


*Hawkins v. Comm’r*, 665 F.3d 25 (1st Cir. 2012) (refusing to extend consent decree; finding agency had no duty to collect information from dental providers regarding openings, no evidence that children requesting services were not receiving them, and that statewideness provisions did not require agency to provide orthodontic services within a certain driving distance), affg, No. 99-cv-143-JD, 2010 WL 2039821 (D.N.H. May 19, 2010), same case, 2008 WL 2741120 (July 10, 2008) (refusing to find contempt), 2007 WL 2325216 (Aug. 13, 2007) (same), prior proceeding, 2004 WL 166722 (D.N.H. Jan. 23, 2004) (approving consent decree, certifying class).


*Katie A. v. Douglas, 481 F.3d 1150 (9th Cir. 2007) (holding that wraparound services and therapeutic foster care are within the State’s EPSDT obligations under federal law, but that if all EPSDT-mandated components of these services are being provided through existing State programs, then State need not repackage these services as wraparound and therapeutic foster care), rev’d & remanding, 433 F. Supp. 2d 1065 (C.D. Cal. 2006), later case history: No. 2:02-cv-05662 (E.D. Cal. Sept. 30, 2020) (Joint Stipulation re: Class Action Settlement), reprinted at https://healthlaw.org/wp-content/uploads/2020/09/1031-Joint-Stip-Re-Class-Action-Settlement.pdf.

Pediatric Specialty Care, Inc. v. Ark. Dept. of Human Servs., 444 F.3d 991 (8th Cir. 2006) (refusing to require disclosure of identities of peer review physicians who make coverage determinations), and No. 4:01CV00830, 2005 WL 5660038 (E.D. Ark. Feb. 7, 2005) (finding individually named defendants not entitled to qualified immunity because they violated clearly established EPSDT rights), aff’d in part and reversed in part, 443 F.3d 1005 (8th Cir. 2006) (holding EPSDT provisions enforceable under § 1983, that ADHS could not be sued because of sovereign immunity), cert. granted, judgment vacated in part, remanded to dismiss appeal as moot sub nom. Selig v. Pediatric Specialty Care, 551 U.S. 1142 (2007), prior history, 364 F.3d 925 (8th Cir. 2004) (ordering State to cover early intervention Child Health Management Services (CHMS) until impact study on terminating services was completed), prior history, 293 F.3d 472 (8th Cir. 2002) (holding EPSDT provisions enforceable under § 1983, that a child has a right to early intervention day treatment recommended by their physician, that federal law did not require state plans to list every conceivable treatment service, and that state plan satisfied EPSDT
mandate if it indicated state would provide other health care to correct or ameliorate conditions as described in § 1396d(r)(5)).

*Westside Mothers v. Olszewski*, 454 F.3d 532 (6th Cir. 2006) (finding § 1396a (a)(43)(A) provision enforceable under § 1983) (additional case history omitted).

S.D. ex rel. Dickson v. Hood, 391 F.3d 581 (5th Cir. 2004) (holding EPSDT provisions enforceable under § 1983 and that incontinence supplies are § 1396d(a) coverable service), aff’d, No. 02-2164, 2002 WL 31741240 (E.D. La Dec. 3, 2002).

Collins v. Hamilton, 349 F.3d 371 (7th Cir. 2003) (requiring coverage of placements in psychiatric residential treatment facilities).


Tallahassee Mem’l Reg’l Med. Ctr. v. Cook, 109 F.3d 693 (11th Cir. 1997) (requiring coverage for inpatient grace days needed by adolescents during periods when alternative care settings were unavailable).

Texas v. U.S. Dep’t of Health & Human Serv., 61 F.3d 438 (5th Cir. 1995) (affirming refusal to cover inpatient residential chemical dependency treatment (to include room and board) as EPSDT rehabilitation service).

Miller ex rel. Miller v. Whitburn, 10 F.3d 1315 (7th Cir. 1993), vacating, 816 F. Supp. 505 (W.D. Wis. 1993) (transplant covered under EPSDT).


Bond v. Stanton, 630 F.2d 1231 (7th Cir. 1980), appeal after remand, 655 F.2d 766 (7th Cir. 1981), same case, 372 F. Supp. 872 (N.D. Ind.), aff’d, 504 F.2d 1246 (7th Cir. 1974) (rejecting state’s “somewhat casual approach” to outreach and informing).


Federal District Court Cases:

M.H. v. Berry, No. 1:15-CV-1427, 2021 WL 1192938 (N.D. Ga. Mar. 29, 2021) (finding the process used by the State to determine in-home skilled nursing hours failed to adequately consider the treating physician’s recommendation; citing Moore v. Reese but noting that the State cannot “arbitrarily ignore” reasons given by a treating physician for higher hours; also finding that private duty nursing services must be provided by a nurse and enjoining the State’s “teach and wean” policy, which reduced nursing hours by shifting more of the burden onto caregivers without adequate consideration of caregivers’ capacity to provide the care).

* A.A. by and through P.A. v. Phillips, 339 F.R.D. 232 (M.D. La. 2021) (on appeal) (certifying class and allowing plaintiffs to proceed with EPSDT and ADA/§ 504 claims that intensive home and community behavioral health services are not being provided with reasonable promptness; recognizing the State did not object to findings of a State-funded audit finding that Louisiana’s policy of not providing IHCBS led to beneficiaries seeking services from emergency rooms and institutional placements).

Hennessy-Waller v. Snyder, 529 F. Supp. 3d 1031 (D. Ariz. 2021) (denying preliminary injunction seeking to direct the State to cover male chest reconstruction surgery as a treatment for gender dysphoria and refusing to enjoin enforcement of a State regulation excluding gender reassignment surgery from Medicaid coverage; finding the merits of plaintiffs’ EPSDT claim doubtful because there was no evidence showing that plaintiffs had been evaluated by a psychologist or psychiatrist and finding conflicting expert testimony on the efficacy and safety of male chest reconstruction surgery).

C.R. by and through Reed v. Noggle, No. 1:19-cv-04521-LMM, 2021 WL 4538506 (N.D. Ga. Sept. 13, 2021) (finding prior authorization entity a state actor under § 1983; deferring to CMS’s definition of ameliorative treatment and concluding that Georgia’s requirement for “rapid improvement” when deciding ongoing speech therapy coverage was impermissibly narrow and incompatible with the Medicaid Act’s mandate to cover ameliorative and corrective treatment; finding Georgia’s written notices of denial violated the Medicaid Act, federal regulations, and due process).

M.A.C. by next friend, M.E.C. v. Smith, No. 3:21-cv-509, 2021 WL 5995327 (M.D. Tenn. Dec. 20, 2021) (rejecting arguments that provider shortages were not traceable to TennCare and (citing Armstrong v. Exceptional Child Ctr.) that rate challenges are not judicially redressable;
denying Tennessee’s motion to dismiss EPSDT claim that personal attendant services are not required under EPSDT).


**K.B. v. Mich. Dep’t of Health & Human Servs.**, 367 F. Supp. 3d 647 (E.D. Mich. 2019) (dismissing reasonable promptness claim, § 1369a(a)(8), on grounds that State can fulfill its obligation by using “**medical assistance**” as payment and plaintiffs allegations focused not on payment but on failure to provide **intensive home and community-based mental health** services; refusing to dismiss EPSDT claim, finding that § 1396a(a)(43)(C) requires the State to “**arrange for**” treatment and that contracting with **prepaid health plans** to provide EPSDT and writing checks did not absolve the State of obligation to ensure adequate treatment is in fact provided; allowing plaintiffs to proceed with **ADA integration mandate** claim based on their risk of institutionalization).

**I.N. v. Kent**, No. C 18-03099 WHA, 2019 WL 1516785 (N.D. Cal. Apr. 7, 2019) (certifying class and granting preliminary approval of **class settlement** requiring Medicaid agency to (1) designate case management service providers for children with medically complex conditions who need **in-home private duty nursing** services; (2) ensure class members can contact state agency directly regarding in-home nursing or case management services; (3) require service providers to send notices to class members with information regarding the case management services available to them; and (4) provide class counsel with data regarding in-home nursing services), **same case**, 2018 WL 4913660 (Oct. 10, 2018) (denying defendant’s motion to dismiss based on arguments that inadequate services were due to nursing shortages and actions or inactions of independent third parties, finding that the complaint alleged there are qualified providers in plaintiffs’ geographic areas, suggested steps defendants could take to address the problems, and EPSDT’s “**arrange for**” provision requires more than merely contracting with service providers and paying them).

**M.J. v. D.C.**, 401 F. Supp. 3d 1 (D.D.C. 2019) (denying D.C.’s motion to dismiss case filed by children and advocacy program asserting violations of EPSDT and ADA due to the lack of three **intensive community-based services**—intensive care coordination, intensive behavior support services, and mobile crisis services, finding, among other things, that plaintiffs alleged that D.C. fails to provide appropriate treatment opportunities in the three areas in favor of admitting children to residential facilities and these allegations, if true, would form the basis for a violation of the EPSDT mandate).

**Davis on behalf of J.D.D. v. Carroll**, 329 F.R.D. 435 (M.D. Fla. 2018) (dismissing case filed on behalf of a child who did not receive medical care while in custody of the Department of Children and Families (DCF) and, 11 years later, was diagnosed with full-blown AIDS, finding
that employees of DCF had qualified immunity from damages in their individual capacities (despite knowing of the child’s risk for HIV) because Medicaid provisions were not sufficiently clear to put them on notice that failing to recommend HIV screening would violate his rights to EPSDT and finding child lacked standing to sue director of DCF in his official capacity for ongoing failure to provide outreach and information regarding EPSDT because DCF did not have responsibility for providing EPSDT outreach; the Agency for Health Care had that obligation).

Disability Law Center of Alaska v. Davidson, No. 3:16-cv-0277-HRH, 2018 WL 1528158 (D. Alaska Mar. 28, 2018) (granting plaintiffs’ motion for summary judgment and finding that CMS cannot authorize defendants to deny providing ABA therapy under EPSDT and noting earlier opinion in the case stating that “CMS could not waive the requirement that defendants provide ABA under the EPSDT program[.]”).


Troupe v. Bryant, No. 3:10-cv-153, 2016 WL 6585299 (S.D. Miss. Nov. 17, 2016) (granting Defendants’ motion to dismiss Plaintiffs’ claim alleging lack of screening services under 42 U.S.C. § 1396a(a)(43), finding “Plaintiffs have the affirmative duty to request health screenings and failed to allege or do so).


William v. Horton, No. 1:15-cv-3792-WSD, 2016 WL 6582682 (N.D. Ga. Nov. 11, 2016) (although finding EPSDT provisions enforceable § 1983 right and that defendants are not entitled to immunity under the Eleventh Amendment, plaintiff’s claims against defendants in their individual – and not official - capacity were dismissed, based on qualified immunity and preliminary injunction seeking placement in the psychiatric residential treatment facility (PRTF) was denied for insufficient information as to the specific relief sought or actions required by defendants).

A.H.R. v. Wash. State Health Care Auth., 469 F. Supp. 3d 1018 (W.D. Wash. 2016) (noting EPSDT requirement to arrange for necessary services and granting preliminary injunction requiring defendants to take all actions within their power necessary for plaintiffs to receive 16 hours per day of private duty nursing).

M.A. v. Norwood, 133 F. Supp. 3d 1093 (N.D. Ill. 2015) (in case challenging reduction of children’s in-home shift nursing hours, court found allegations sufficient to state claims that EPSDT and ADA were being violated, that eligibility standards were unreasonable, unwritten, and arbitrary in violation of due process, and that written notices of denial were inadequate).


Providence Ped. Med. Daycare, Inc. v. Alaigh, 112 F. Supp. 3d 234 (D. N.J. 2015) (finding health care providers could not enforce EPSDT provisions post Armstrong and finding evidence did not support claim of that EPSDT services were denied).


N.B. v. Hamos, No. 11 C 06866, 2013 WL 6354152 (N.D. Ill. Dec. 5, 2013) (finding 42 U.S.C. §§ 1396a(a)(43) and 1396d(r) provisions enforceable under § 1983 and allowing plaintiffs to proceed with ADA and Rehabilitation Act claims where plaintiffs argued defendant was not providing access to in-home nursing services), same case, 26 F. Supp. 3d 756 (N.D. Ill. 2014) (certifying class).


*Chisholm v. Kliebert, No. 97-3274, 2017 WL 3730514 (E.D. La. Aug. 30, 2017) (deciding plaintiffs’ motion to enforce 2014 Stipulated Order addressing delays in obtaining ABA services and looking to EPSDT requirements to determine what constitutes reasonable promptness, requiring defendants to mitigate problems and noting that reimbursement rate must not be set so low as to “frustrate[] the reasonable promptness provision), 2013 WL 3807990 (E.D. La. July 18, 2013) (finding agency in continuing contempt of remedial order and ordering agency to ensure direct enrollment of Board Certified Behavioral Analysts until the state has begun issuing licenses to providers who treat children with autism disorders), and 2013 WL 4089981 (Aug. 13, 2013) (denying defendant’s motion to stay and to clarify), same case, 876 F. Supp. 2d 709 (E.D. La. 2012) (refusing to order agency to document clinical review criteria when denying prior authorization of home nursing services as beyond the scope of the consent decree but enforcing requirements to identify chronic needs children and provide adequate notice of denials); 133 F. Supp. 2d 894 (E.D. La. 2001) (community-based behavioral and psychological services for autism fall under § 1396d(a)(6) and d(a)(13)), same case, 110 F. Supp. 2d 499 (E.D. La. 2000) (restricting therapy services to schools and
limiting home health services violates EPSDT).

**Hunter ex rel. Lynah v. Cook**, No. 1:08-CV-2930-TWT, 2013 WL 5429430 (N.D. Ga. Sept. 27, 2013) (granting permanent injunction on EPSDT and ADA grounds prohibiting defendant from reducing hours of in-home skilled nursing), same case, 2013 WL 2252917 (Mar 22, 2013) (granting partial summary judgment to defendant where plaintiff did not show lack of EPSDT information or denial of case management, personal care, or incontinence supplies); 2011 WL 450009 (Sept. 27, 2011) (refusing to find case moot where plaintiffs were receiving some but not all requested private duty nursing hours and allowing plaintiff to add Americans with Disabilities Act claim); 2010 WL 623475 (Feb. 18, 2010).


**Illinois Dep’t of Health-Care & Family Services v. United States Dep’t of Health & Human Services**, No. 06-C-6402/6412, 2008 WL 877976 (N.D. Ill. Mar.28, 2008) (affirming Departmental Appeals Board decision to disallow school-based administrative costs under the Medicaid program in part because the costs were properly associated with “child find” activities under the Individuals with Disabilities Education Act).


Ekloff v. Rodgers, 443 F. Supp. 2d 1173 (D. Ariz. 2006) (holding state obligated under § 1396d(r)(5) to cover incontinence briefs for children with bowel and/or bladder incontinence to avoid skin breakdown and infection).

Okla. Chapter of Am. Acad. of Ped. v. Fogarty, 366 F. Supp. 2d 1050 (N.D. Okla. 2005) (finding no EPSDT violation even though participation goals not met because goal is “hortatory”; “Failure to achieve a performance goal does not amount to a violation of federal law.”) (additional case history omitted).

Health Care for All v. Romney, No. Civ. A. 00-10833RWZ, 2005 WL 1660677 (D. Mass. July 14, 2005) (finding Medicaid dental payments so low as to effectively frustrate the reasonable promptness provision by foreclosing the opportunity for enrollees to receive care at all, much less in a timely manner and that lack of dentists caused enrollees to be unable to obtain treatment at reasonable intervals), same case, No. 00-10833-RWZ, 2004 WL 3088654 (D. Mass. Oct. 1, 2004) (holding § 1396a(a)(43) provision enforceable but § 1396d(r)(5) definitional provision not enforceable under § 1983 and finding the obligation to provide and meet standards for delivery of EPSDT derives from § 1396a(a)(10)(A)).

Clark v. Richman, 339 F. Supp. 2d 631 (M.D. Pa. 2004) (finding EPSDT provisions enforceable under § 1983 and finding that timeliness standard regulation, 42 C.F.R. § 441.56(e), while setting outer limit for initiating treatment, did not supplant the need for additional timeliness standards).


Emily Q. v. Bonta, 208 F. Supp. 2d 1078 (C.D. Cal. 2001) (requiring notice of EPSDT mental and therapeutic behavioral health services, develop forms to request services, provide compensatory benefits to children wrongfully denied services).


Hunter v. Chiles, 944 F. Supp. 914 (S.D. Fla. 1996) (coverage of augmentative communication device; discussing other state funding agencies and school districts).


Wis. Welfare Rights Org. v. Newgent, 433 F. Supp. 204 (E.D. Wis. 1977) (denying plaintiffs’ motion of summary judgment regarding EPSDT screening and outreach where responsibility was delegated to counties and the delegation was not attacked).


State Courts:

J.D. v. Dep’t of Child. and Fam., No. A-3411-17T4, 2020 WL 4811558 (N.J. Sup. Ct. App. Div. 2020) (per curiam) (while acknowledging plaintiff’s challenge to Departmental policies that resulted in a “hard cap” on the amount of in-home behavioral health services was first raised on appeal, the court deemed the issues of “significant public interest” to warrant review and, upon consideration of them, vacated and remanded to Department for development of the record and consideration of plaintiff’s arguments that the policies violated EPSDT and ADA provisions).


Q.H. v. Sunshine State Health Plan, 307 So.3d 1 (Fla. Dist. Ct. App. 2020) (reversing denial of growth hormone therapy because state disregarded the treating physician’s opinion and child’s individualized needs and relied instead on its own preset coverage criteria).

Freeman v. Wash. Dep’t of Soc. & Health Servs., 173 Wash. App. 729 (Ct. App. 2013) (holding general supervisory care provided by parents of child with disability is not a personal care service or remedial service under EPSDT).

J.S. v. Hardy, 229 W. Va. 251 (Ct. App. 2012) (remanding with instructions for hearing officer to conduct independent review of facts in case seeking power wheelchair with numerous accessories for minor with Quad Cerebral Palsy).

E.B. v. Ag. for Health Care Admin., 94 So.3d 708 (Fla. Ct. App. 2012) (reversing and remanding to require hearing officer to consider federal EPSDT standards when deciding extent to which home health services are covered by Medicaid).


Comprehensive Advocacy v. Idaho Dep’t of Health & Welf., No. CV OC 0815034 (Idaho Dist. Ct. 4th Dist., May 13, 2009) (on file with NHeLP) (finding Department’s school based health service rules impermissibly restricted necessary and mandatory services for children who are eligible for EPSDT services provided by their public school districts).

Urban v. Meconi, 930 A.2d 860 (Del. 2007) (reversing and remanding hearing officer’s decision denying coverage of breast reduction surgery, noting the opinion of the examining doctor deserved weight).

Cook ex rel. Cook v. Agency for Persons with Disabilities Dist., 967 So.2d 1002 (Fla. Dist. Ct. App. 2007) (holding that a more restrictive state definition of medical necessity than the federal “correct or ameliorate” definition is impermissible for services listed in § 1396d(a), but affirming hearing officer’s decision to approve only six hours of personal care assistance rather than the requested nine hours).

In re Erena, No. 2007-162, 2007 WL5313358 (Vt. Nov. Term 2007) (affirming order denying the parents’ request for reimbursement for wheelchair lift for van and denying reimbursement as “personal choice” drivers for their disabled son).

S.A.H. ex rel. S.J.H. v. Dep’t of Soc. & Health Servs., 149 P.3d 410 (Wash. Ct. App. 2006) (holding mother was no longer entitled to state-funded transportation services for her autistic child to receive Applied Behavioral Analysis therapy outside her geographic area, once
equivalent services became available locally).

**C.F. v. Dep’t Children and Families**, 934 So.2d 1 (Fl. Dist. Ct. App. 2005) (holding administrative hearing officer improperly applied narrow definition of “medical necessity” and “personal care services” than contained in federal EPSDT statute and failed to give appropriate deference to the opinion of plaintiff’s treating physician).


**Jacobus v. Dep’t of PATH**, 857 A.2d 785 (Vt. 2004) (requiring coverage of “interceptive” orthodontic treatment to prevent a malocclusion and refusing to limit coverage to treatment for already existing “handicapping malocclusions.” Citing EPSDT but also focusing on amount, duration and scope requirements and prohibitions on differing treatment based on condition; finding coverage cannot be limited to predefined list of criteria, as individualized review and deference to treating physician are required).


**Department of Community Health v. Freels**, 258 Ga. App.446 (Ct. App. 2002) (requiring Department to determine whether hyperbaric oxygen therapy was necessary to correct or ameliorate child's cerebral palsy; rejecting Department’s position that services need to fall within an acceptable standard of medical practice to be eligible for reimbursement).


**Tomorrow’s Hope, Inc. v. Idaho Dep’t of Health & Welf.**, 864 P.2d 1130 (Idaho 1993) (EPSDT as reimbursable cost for ICF/MRs).


