

Judge David L.

BAZELON CENTER
for Mental Health Law

NEWS

Groundbreaking Reform of Managed Mental Health Care for Children Ends Federal Lawsuit in Arizona

Washington DC, March 20, 2001 —An estimated 20,000 Arizona children will benefit from the landmark settlement of a 10-year-old federal class action lawsuit announced today, reforming the state's behavioral healthcare system for children. The suit known as J.K. v. Eden challenged Arizona's failure to provide mental health services to poor children.

The agreement ending the lawsuit was announced jointly by Arizona Governor Jane Hull and Catherine R. Eden, director of the Arizona Department of Human Services and lawyers representing the children: Ira Burnim, legal director of the Washington DC-based Bazelon Center for Mental Health Law, Anne Ronan, staff attorney of the Arizona Center for Disability Law, and Joseph McGarry, of Lewis and Roca, LLP, a Phoenix law firm.

"The settlement is groundbreaking," Burnim said, "because it is the first to overhaul a state mental health system that operates on a managed care basis." The agreement is also unique in its approach to reform, he explained, because it spells out in a legal document a "vision" defining the purpose of children's behavioral health services and a set of 12 principles for improving the quality of those services, to be incorporated in all aspects of the system's operations.

The "Arizona Vision" is a fundamental shift in the way the state treats children and families and children in foster care who seek mental health treatment. It emphasizes respect for and partnership with families and children in the planning, delivery and evaluation of services, and stresses collaboration among the various agencies that serve children, with the goal of enabling children "to achieve success in school, live with their families, avoid delinquency and become stable and productive adults."

The settlement commits the state to a series of concrete steps, including a massive training program for frontline staff and supervisors, special projects to pilot the new approach to services, and specific improvements in the structure of the managed care arrangement. It anticipates implementation over six years, and obliges the state to move "as quickly as is practicable" to make needed changes. The agreement must still be ratified by the court, following a hearing.

The document incorporates many of the recommendations by Dr. Ivor Groves, a nationally known expert in children's mental health care. Dr. Groves was retained by the state under an earlier agreement in the lawsuit after collapse of the system in Maricopa County, which serves two thirds of the state's children with mental health needs. In July 1997 the Governor declared an emergency in the county and appointed new leadership in the key elements of the state system, beginning the process culminating in today's settlement.

"Arizona families and children can especially thank Catherine Eden for her solid and productive commitment to reform," Burnim said. "I look forward to working with her to implement the Arizona Vision on their behalf."

History of the J.K. Lawsuit

The J.K. lawsuit was originally filed in federal district court in 1991 by a father who had been unable to obtain services for his son. When the managed care system refused to provide the day treatment recommended by professionals, the boy ran away from home, attempted suicide and was ultimately admitted to a psychiatric hospital.

The suit was potentially precedent-setting because Arizona's program was the first in the country to provide mental health services statewide through managed care. In 1993 the court certified it as a class action on behalf of all Arizona children seeking Medicaid mental health services and held the state responsible for the actions of the private companies with which it contracted for managed behavioral healthcare. Two years later the court upheld the children's right to due process protections notice and a hearing when behavioral health services are reduced or cut off.

A crisis came in 1997 when ComCare, managed care contractor in Maricopa County, declared bankruptcy and the Department of Health Services, the state's mental health authority, had to take over the county's system. The resulting publicity drew attention to the inadequacy of children's services, and the parties to the lawsuit agreed to commission an evaluation of services provided in Maricopa County, which includes the city of Phoenix.

Both the initial evaluation in 1998 and a follow-up review completed in April 2000 were conducted by a team headed by Dr. Groves. The team found "a wide gap between the basic standard of care expected ...and the level of performance observed." The team determined that about half of the children in the program fail to receive required behavioral health services and that the system's performance was poorest for children with the most serious problems. Up to 3,500 of the children have complex needs, the experts reported, because their caretakers have disabilities, they are involved with the child welfare or juvenile justice system, or they have co-occurring disabilities, such as emotional disturbance and mental retardation or addiction. The study called for a "fundamental reassessment" of the children's managed behavioral healthcare program and made recommendations.

The court stayed the litigation in 1998, giving the health department and the lawyers for the children time to develop principles for the system's operation and a work plan to implement the experts' recommendations. During the same period, the Groves team reviewed programs in the rest of the state and, in 1999, contracted with the health department to train frontline staff.

Currently the state's managed care system is supervised by both Arizona Health Care Cost Containment System (AHCCCS), which administers the Medicaid program, and the Department of Health Services. The state contracts with ValueOptions, a national for-profit corporation, to operate the Maricopa County service system.