

Judge David L.

BAZELON CENTER
for Mental Health Law

NEWS

Court Affirms States' Obligation to Provide Effective Mental Health Services to Foster Children

April 3, 2007--There is good news for children in California's foster care system. On March 23, 2007, in *Katie A. v. Bonta*, the U.S. Court of Appeals for the Ninth Circuit affirmed the state's obligation to provide effective mental health services to foster children. The appellate court acknowledged compelling evidence that wraparound services and therapeutic foster care (TFC) are medically necessary for many children and that, without them, these children would face grave harm from unnecessary institutionalization.

The decision responded to the State of California's challenge to an injunction issued by a federal trial court in Los Angeles, which directed the state to provide wraparound services and TFC to children in, or at risk of entry into, foster care. The appeals court found that in issuing the injunction, the lower court had erroneously interpreted the "early and periodic screening, diagnostic, and treatment services" (EPSDT) provisions of the Medicaid Act by not "explor[ing] the possibility that the State might only have an obligation to fund the component services of wraparound and TFC, rather than to offer the coordinated complex of services in a single package."

The appellate court made clear that the trial court had the power to require California to provide wraparound and TFC as Medicaid services. However, before doing so, the trial court must examine:

- if each component service of wraparound and TFC are reimbursable under the EPSDT provisions of Medicaid and if so,
- if California is providing each component service effectively and
- if not, should California be required to fund the component services bundled as wraparound and TFC?

Plaintiffs are confident that, after the trial court undertakes the analysis required by the appellate court, it will reinstate its injunction. The trial court has found it likely that each component service of wraparound and TFC is reimbursable under the EPSDT provisions of Medicaid. Moreover, there is ample evidence that California is not providing the component services effectively. Indeed, national research and expert opinion indicate that the demonstrated effectiveness of wraparound and TFC relies on delivering these services as a coordinated package. It is only by bundling services together that California can ensure that foster children get the mental health services they need.