

Judge David L.

BAZELON CENTER

for Mental Health Law

NEWS

***Katie A.* Ruling Moves California Closer to Providing Foster Children the Mental Health Services They Need to Remain Safely at Home**

September 22, 2008-- Federal Judge A. Howard Matz has appointed a special master, Rick Saletta, to facilitate agreement between advocates for children in California's foster care system and the state. Judge Matz ordered the parties in *Katie A.* to meet and report back to the court by October 29 on how wraparound services can be covered by Medi-Cal and properly billed—thereby ensuring that mental health care providers will be reimbursed for delivering these critical services to children in foster care.

The district court order came in response to the plaintiffs' renewed motion for preliminary injunction. The injunction was filed in January to compel the state to expand mental health treatment to include intensive home-based wraparound services and therapeutic foster care for foster children and children at imminent risk of foster care placement, for whom these services are medically necessary.

Katie A. v. Bonta is a class action lawsuit filed in 2003 that challenges the long-standing practice of confining abused and neglected children with mental health problems in costly hospitals and large group homes instead of providing services that would enable them to stay in their homes and communities. The Bazelon Center is co-counsel in the case with the National Youth Law Center, Western Center on Law & Poverty, Protection & Advocacy Inc., ACLU of Southern California, and Heller Ehrman.

More than 80,000 children are in foster care in California. Various studies find that from 70 to 84 percent of them experience a mental health problem. The state's current approach to addressing their needs through institutional care is costly and often ineffective. For example, it is spending \$540 million each year to maintain 4,500 children in high-level group homes—placements that experts testified could be avoided by offering appropriate services in the home and community.

The court ruled that all of the mental health services identified by the plaintiffs as components of wraparound are Medi-Cal eligible. The court ordered parties to provide guidance to the county mental health agencies and eligible recipients, on how wraparound services should be designated and billed. He noted that these negotiations will “assist the parties in reducing or eliminating the confusion about wraparound's Medicaid/ Medi-Cal status” and will “reduce or eliminate the concern of MHPs (County Mental Health Plans), providers, and recipients as to whether such services will be reimbursed.”

At the outset of his decision, Judge Matz described what he called the ‘big picture’ challenge:

This case involves complex statutes and regulation; innovative strategies for dealing with mental illness and behavioral problems afflicting children and adolescents; the challenge of coordinating the efforts of such disparate Medicaid providers as physicians, social workers, lawyers, teachers, family members and foster parents, all of whom serve or treat those children; foster care systems throughout the state that are beleaguered on many fronts, and the ever present (and growing) gap between the legal responsibilities of governments and their capacity to discharge those costly responsibilities.

More concretely, Judge Matz observed that there is “genuine... confusion as to whether certain components of wraparound and TFC qualify as required [mental health] services.” “[T]he main practical barrier,” he concluded, “is determining how providers may and should bill for those services.”

In response to these challenges, Judge Matz made the following observations:

- Changes during and after the hearing in the State Defendants' position on what components are covered by Medi-Cal, “went a considerable distance toward accepting plaintiffs' contentions.”
- Wraparound services consisting of the following nine components are Medi-Cal eligible:
 - Engagement of the Child and Family

- Immediate Crisis Stabilization
 - Strengths and Needs Assessment
 - Wraparound Team Formation
 - Wraparound Service Plan development
 - Wraparound Service Plan Implementation
 - Ongoing Crisis and Safety Planning
 - Tracking and Adapting the Wraparound Service Plan
 - Transition
- “[T]here is clear support for the conclusion that wraparound services must be coordinated to be effective. In addition, “wraparound is considered an ‘evidence-based practice’ and the ‘gold-standard’ in the mental health field...”

As special master starting on April 15, 2009, Saletta will serve for one year. Over the first five months he is to determine whether the parties can reach agreement on a range of issues, then take four months to produce a final written agreement or make recommendations to the court. Key issues that remain to be ironed out include timing, service expansion, funding, the roles and responsibilities of health care providers and administrative agencies, and oversight and quality assurance. The hope is that by agreeing, the parties can ensure that all of California’s at-risk youth are provided the intensive mental health services they need to remain safely at home.

A consortium of state and national public interest groups represents the children, including [Western Center on Law & Poverty, Protection & Advocacy, Bazelon Center for Mental Health Law](#), the [National Center for Youth Law](#), and the [American Civil Liberties Union of Southern California](#), along with the law firm of [Heller Ehrman LLP](#).