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Boies, Schiller & Flexner Commences Trial to Enforce Federal Medicaid Rights for Children

Federal Class Action Lawsuit Brought on Behalf of 1.4 Million Florida Children

NEW YORK – December 7, 2009 – Representing the estimated 1.4 million children in Florida eligible for Medicaid, a team of Boies, Schiller & Flexner LLP (BS&F) attorneys began trial today in Miami before US District Judge Adalberto Jordan. The case seeks to require State of Florida officials to bring Florida’s Medicaid program for children into compliance with federal law.

The federal Medicaid Act provides children with a right to preventative health care and treatment services known as Early Periodic Screening Diagnosis and Treatment (EPSDT), which includes regular examinations, immunizations, lead paint screens, dental care and treatment as needed. The Act requires that EPSDT services be provided to children on Medicaid with “reasonable promptness” and it mandates that children on Medicaid have “equal access” to health and dental care as provided to children with private insurance. Federal law also requires that states conduct outreach to effectively inform eligible children and their families about their rights under Medicaid.

BS&F partner Stuart Singer, who is leading the litigation, said, “It’s very disappointing that in Florida the Medicaid program for kids has chronically fallen short of meeting these federal requirements. The state’s own statistics show several hundred thousand children receive no preventative health care visits at all, that only around 20% of the required lead blood screens are conducted, and that there is an acute shortage of specialists willing to treat Medicaid patients.” Stuart also noted, “With respect to dental care, the situation is, if anything, worse, with recent studies ranking Florida last or next to last in the entire country. The Florida legislature has for years rejected proposals from state administrators to increase reimbursement rates for healthy kid checkups, for specialists, and for dentists, so the situation is deteriorating further.”

The long road to trial in the case, *Florida Pediatric Society v Thomas W. Arnold, AHCA Secretary*, began in November 2005 when BS&F filed suit on behalf of a

number of eligible children and the Florida Pediatric Society and the Florida Academy of Pediatric Dentists. Since that time, plaintiffs have prevailed on a variety of motions, including motions to dismiss and for summary judgment filed by state officials. The court certified the case as a class action on behalf of Florida children eligible for Medicaid on September 30, 2009. That includes approximately 1.4 million children currently enrolled in Medicaid and several hundred thousand more children eligible for Medicaid. Most recently, on December 1, the U.S. Court of Appeals for the 11th Circuit denied the State defendants' motion to accept an emergency appeal and postpone the trial.

The Firm's Ft. Lauderdale-based trial team, in addition to Stuart Singer, includes co-lead counsel Carl Goldfarb, Sashi Boruchow, Lauren Louis, Susan Klock and Paul Verkuil from the Firm's NYC office. James Eiseman Jr. of the Public Interest Law Center of Philadelphia is co-counsel.

BS&F, based in New York City, has grown to over 230 lawyers practicing in offices strategically located throughout the U.S. The Firm has tried over 350 cases before juries and judges in federal and state courts and regularly serves as lead counsel on complex, high profile global matters. In addition, the Firm has a fast-growing corporate practice. For more information about BS&F, please visit www.bsflp.com.

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