

**HEALTH CARE FOR ALL, INC., *et al.*, Plaintiffs,
v. GOVERNOR MITT ROMNEY, *et al.*, Defendants.**

**CIVIL ACTION NO. 00-CV-10833-RWZ
FIRST JOINT REPORT ON PROPOSED REMEDIAL PROGRAM**

==EXCERPTED SECTIONS==

**I. MATTERS UPON WHICH THE PARTIES
HAVE REACHED AGREEMENT**

The parties agree that the state defendants shall take all steps necessary to implement the following actions:

ITEM “A”

Within 6 months of September 1, 2005, the Executive Office of Health & Human Services (“EOHHS”) shall amend existing MassHealth dental program regulations to accomplish the following stated objectives:

1. 130 CMR 420.405 (A) Provider Eligibility – Eliminate requirement for a Department of Public Health (“DPH”) license for state owned and operated dental clinics to be consistent with DPH licensing policy.
2. 130 CMR 420.406 Caseload Capacity – Allow MassHealth dental providers to limit the number of MassHealth members that they treat. EOHHS will provide plaintiffs’ counsel with an advance copy of the proposed regulation for review and comment prior to publication.
3. 130 CMR 420.422(B) Periodic Oral Evaluation – Allow periodic oral evaluation to be reimbursed twice per twelve-month period without prior authorization.
4. 130 CMR 420.422(C) – Emergency Dental Care. Allow reimbursement for other non-emergency, medically necessary treatment provided during the same visit as an emergency care visit.
5. 130 CMR 420.423(B) Radiographs – Decrease the minimum number required for full mouth x-ray from 12 to 10 periapical and two posterior bitewing x-ray.
6. 130 CMR 420.424(A) Preventive Services – Allow oral prophylaxis to be reimbursed twice per twelve-month period without prior authorization.
7. 130 CMR 420.424(B) Preventive Services – Allow topical fluoride treatment without limitation and without prior authorization.

8. 130 CMR 420.424(C) Preventive Services – Clarify that dental hygienists can provide periodontal scaling and root planing.

9. 130 CMR 420.424(E) Preventive Services – Allow reimbursement for sealants for primary or permanent first and second non-carious molars, first and second non-carious premolars that have deep pits and fissures. Also allow reimbursement for sealants for non-carious third molars that have deep pits and fissures.

10. 130 CMR 420.424(F) Preventive Services – Allow occlusal guard designed to minimize the effects of bruxism and other occlusal factors for members under age 21. Prior authorization is required.

11. 130 CMR 420.425(B)(3) Restorative Services – Allow reimbursement for four or more surface composite restorations on a single anterior or posterior tooth.

12. 130 CMR 420.426(B)(2) Endodontic Services – Eliminate restrictions on the number of teeth on which root canal therapy may be performed during a period of treatment.

13. 130 CMR 420.427(I) Prosthodontic Services – Cover partial denture relines and rebases with prior authorization.

14. Eliminate prior authorization requirements for the following services:

a. 130 CMR 420.410(C) – Eliminate prior authorization for diagnostic photographs.

b. 130 CMR 420.410(C) – Eliminate prior authorization for oral screening for members undergoing radiation treatment, chemotherapy, or organ transplant.

c. 130 CMR 420.424(G) – Eliminate prior authorization for customfitted mouth guards.

d. 130 CMR 420.429(D) – Eliminate prior authorization for surgical removal of soft tissue and partial bony impaction.

ITEM “F”.

Effective July 1, 2006, defendants shall increase MassHealth dental reimbursement rates for eligible members age 21 and under by an estimated amount of at least \$13.74 million. Defendants further agree that they shall thereafter review and analyze dental

reimbursement rates on an annual rather than biannual basis, and assess based on then-existing circumstances whether any further adjustment is warranted. Although there is no agreement as to whether any further rate increases will be necessary, the defendants do not foreclose that possibility and remain open to further discussion with plaintiffs' representatives.