

NEWS RELEASE

Media Contact:

Deborah Muchmore, for Dykema
517.372.4400; debm@mrgmi.com

Gary P. Gordon, Dykema
517.374.913; ggordon@dykema.com

Suit Filed Against State on Behalf of 400,000 Michigan Medicaid-Dependents Denied Access to Dental Healthcare

Class action lawsuit seeks to rectify State's refusal to fund essential dental care for developmentally disabled and financially limited individuals. The State is in violation of requirements under federal Social Security Act's Medicaid provisions, jeopardizing the health of hundreds of thousands of vulnerable Michigan Medicaid beneficiaries.

LANSING, MICH October 29, 2009 — In a move aimed at forcing the State of Michigan and the Legislature to protect the rights of Michigan's most vulnerable population, including the developmentally disabled and those with minimal financial resources, a lawsuit was filed in federal court against the Granholm Administration. A class of more than 400,000 at-risk Michigan residents is suing the State for failing to uphold its legal obligations with regard to funding certain dental care services under the federal Medicaid program.

The suit seeks to compel the State to bring its funding scheme for adult dental benefits under Michigan's Medicaid program back into compliance with federal law.

Speaking on behalf of the class, Dykema attorney Gary Gordon of Lansing, said the suit became necessary after the Granholm Administration's May Executive Order, effective July 1st, 2009, virtually eliminated Medicaid adult dental benefits. Michigan's Legislature's failed to restore funding for the program for the balance of the 2009 fiscal year; and the Legislature and Governor have neglected to make any changes to the funding scheme established by the Executive Order in the proposed 2010 budget.

"Unfortunately, the State has left no alternatives to this group of disadvantaged citizens but to take the State to court to ensure their that federally-protected rights to a certain minimum level of medical services are protected," said Gordon. "The State holds a legal, moral and fiduciary obligation to these citizens and to the taxpayers."

Although participation in the federal Medicaid program is optional, once a state 'opts in,' and thereby obtains federal funding, the State must comply with all federal requirements. **The suit alleges that, by effectively eliminating adult dental benefits, Michigan is violating key federal regulatory and statutory mandates, including:**

- Failing to adopt and maintain programs and policies that operate to make dental care available for Medicaid beneficiaries throughout Michigan;

Cont...

- Failing to provide proper and efficient operation of the Medical Assistance Program, and to provide payments that facilitate provision of care in a manner consistent with the best interest of Medicaid beneficiaries;
- Failing to provide payments that facilitate adequate participation by Michigan dental providers in the Medical Assistance Program, resulting in some Medicaid beneficiaries in Michigan being able to obtain sufficient dental care while others cannot;
- Acting in an arbitrary and capricious manner, and contrary to and in violation of the efficiency, economy, and quality of care provisions; and
- Failing to enlist enough providers so that dental health care and services are available to Medicaid-eligible adults who reside in various geographic areas in Michigan, including, without limitation, numerous counties in the northern portion of the lower peninsula, at least to the extent that such care and services are available to the general population.

Michigan elected to participate in the federal Medicaid program in October 2005. As such, Michigan is legally bound to provide funding for services and benefits in compliance with all of the requirements in federal law. To discontinue participation, Michigan must provide official notice to the federal government of its change in policy; to date, the State has not done so, and is therefore obligated to fulfill its obligations under the Medicaid program.

Declaring that the move to alter the funding scheme for the Medicaid dental program was intended to address Michigan's fiscal solvency challenges, the governor effectively aggravated the State's budget woes. By dropping the State's fiscal commitment of less than \$5 million in the State Medicaid budget of more than \$8 billion, Granholm has caused Michigan to forego some \$16 million in federal matching money that Michigan receives annually to fully fund Michigan's Medicaid dental program.

Not only is the State worsening its fiscal situation by leaving available federal money off the table, it will bear the burden of steeper Emergency Room costs, the result of those forced to access care through more expensive hospital providers. What's more, elimination of the changes to the adult dental benefit in the State's Medicaid program could make thousands of Michigan residents with marginal resources more vulnerable to debilitating and potentially life-threatening illnesses.

Adequate dental care is vital to overall general health. Regular dental care and treatment can prevent such catastrophic illnesses as diabetes, heart disease, arteriosclerosis, and cancer; and regular dental care is often critical in the early detection and successful treatment of these diseases. Untreated dental disease in pregnant women can cause pre-term delivery or low birth-weight babies.

The suit was filed Wednesday in the United States District Court for the Western District of Michigan, located in Grand Rapids. The case is assigned to Judge Robert Holmes Bell.

###