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RESOURCES Monday, February 26, 2007

BREAKING NEWS

Court entanglement over care

LOCAL & REGION

State, plaintiffs face off on TennCare for children

By Emily Berry Staff Writer

NATION & WORLD

A nine-year court battle requiring TennCare to provide adequate health care to nearly 679,000 children on the Medicaid program is heating up.

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A federal judge last week set a deadline for TennCare officials and for plaintiff attorneys to demonstrate whether the state is following a 1998 court order to boost health care for the age group. On May 1, the court will review the report and try to move the case forward.

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COMMUNITY NEWS

Michele Johnson, attorney with the Tennessee Justice Center, which has represented TennCare enrollees in three major cases, said the state repeatedly tried to avoid fixing its system for children's health care under TennCare. An agreement between the state and the plaintiffs was reached in federal court in 1998.

BLOGS

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"But for this consent decree, children basically would have been at the bottom of the agenda," Ms. Johnson said.

Ms. Johnson said she and the other attorneys representing children on TennCare want the state to develop a plan so children receive entitled care.

TennCare spokeswoman Marilyn Wilson, however, said, "No one can question our commitment to meeting the medical needs of kids on TennCare."

Tennessee spent nearly \$1.5 billion on TennCare services to children last year, she said.

The state is under federal court decrees to provide adequate coverage for impoverished children on TennCare.

Court-appointed monitors issued a report in January, stating the state was not following its agreement and repeatedly refused to share its implementation plans.

“The monitors were struck with the state’s complete inability and unwillingness to demonstrate the existence of a comprehensive, ongoing plan of action, complete with goals and objectives, and designed to assure compliance with the Consent Decree,” according to the report.

The state repeatedly stated it is following federal early periodic screening, diagnosis and treatment requirements and the consent decree. Federal law requires the state to provide poor children with regular checkups and treatment for illnesses. TennderCare is the state’s program designed to meet the requirements.

TennderCare screening rates have risen more than 67 percent each of the past five years, Ms. Wilson said.

“We believe (the monitors) overlooked pertinent evidence and misinterpreted the requirements of the decree,” she said.

Florida Young recently watched as a nurse at Dr. Willie Mae Hubbard’s clinic in Chattanooga checked the vision of her daughter, Sydelle, as part of a TennderCare checkup.

Ms. Young said Dr. Hubbard’s office made the checkup appointment. She could not recall having received a mailing or phone call from TennCare about her daughter’s Tennder-Care services.

In 1998, public health advocates including the Tennessee Justice Center sued the state on behalf of children enrolled in TennCare, alleging that Tennessee failed to meet the federal requirements.

The case was named for the first plaintiff, called John B., a severely disabled boy in foster care who at the time was 10. His foster parents alleged the managed care company administering John B.’s TennCare benefits endangered him by refusing and delaying modifications to his wheelchair so it would be safe for him to use.

The two sides reached an agreement in the John B. case. The state and attorneys with the Tennessee Justice Center have disagreed over whether the state is honoring the agreement.

In 2001, after a three-week trial, Judge John T. Nixon ruled the state was in violation of the consent decree, but he did not find the state in

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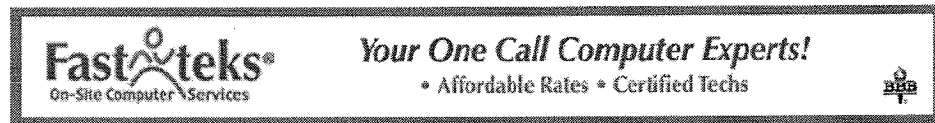
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contempt, instead appointing a special master charged with helping the state come into compliance, Ms. Johnson said. Again in 2004, the court ruled the state was violating the consent decree, she said.

In 2006, after the state challenged the legality of the special master's communications with Judge Nixon, he recused himself, and Judge William Haynes took over the case. He put together the team of court monitors to examine whether the state was in compliance with the consent decree.

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