

## Summary

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On August 26, 2003, Governor Bredesen announced that the State has reached a settlement agreement with the Tennessee Justice Center regarding several lawsuits related to TennCare. This settlement is good news for TennCare enrollees and providers.

### Grier Case

#### **Background on the Case:**

- This case was filed in 1979 to challenge the State's appeals process as it related to the denial of medical services.
- Over the years, there have been several orders filed in this case. The order at issue today relates to the consent decree entered into in October, 1999. That order, among other things, required TennCare to fill 14-days of a prescription, even if it required prior approval by the managed care organization.

#### **Highlights of the Agreement:**

The settlement agreement suspends the 14-day provision for prescription drugs and replaces it with a three-day limit. This three-day prescription supply agreement will apply through December 31, 2005 and is estimated to save TennCare over \$100 million annually. This savings is an additional savings to the \$90 million that is estimated in drug rebated from the prescription drug carve out by the state and the beginning of the implementation of the Preferred Drug List on July 1, 2003.

The settlement also provides additional protections for enrollees who are in a youth development center and for enrollees who successfully appeal a denial of services.

### Rosen Case

#### **Background on the Case:**

- This case originated in 1998 as a challenge to the State's eligibility determination process for uninsured uninsurables.
- Like the Grier case, there have been several orders filed over the years, the most recent being a lengthy decision issued in December 2002 regarding the State's determination process launched earlier that year.
- This determination process was initiated after the federal government issued Tennessee a new waiver which made changes to TennCare's eligibility requirements. Once the waiver was issued, the State launched an effort requiring TennCare enrollees to "re-apply," determining that they meet the new eligibility requirements for TennCare. The latest order issued in the Rosen case questioned whether the process employed by the State was had integrity.

- As a result, at the end of 2002, the Court ordered the State to reinstate 200,000 people that had been removed from TennCare's rolls as part of this reverification process. The order was appealed and a stay issued, resulting in 160,000 enrollees being terminated again. Argument on the appeal had been scheduled for later this fall.
- Should the courts agree with the agreement reached between the State and TJC, the 2002 order would be vacated by the Courts and the plaintiffs would agree to work with the State outside the legal system until June 30, 2004.

### **Highlights of the Agreement:**

Earlier this year, the Governor extended a grace period for 160,000 individuals who lost coverage because they allegedly failed to contact DHS during the eligibility redetermination process, allowing them to reapply for coverage based on the eligibility requirements in place at the time of redetermination. Under the settlement agreement, the State extends this opportunity to approximately 40,000 additional people not included in the Governor's original grace period. They will have one year to reapply and prove eligibility.

The State has also withdrawn the benefit reductions and cost-sharing increases that were to have taken effect on January 1, 2003. As a result of the above, this lawsuit will be vacated.

### **Newberry Case**

#### **Background on the Case:**

- This case was originally filed in 1998 to challenge the program's allegedly inappropriate denial of home health services for people with disabilities.
- This case was originally scheduled for trial in March of this year, but was postponed as part of the settlement discussions.

### **Highlights of the Tentative Agreement:**

The State will withdraw the proposed reductions in home health and other benefits provided to enrollees. Specifically, the State will not pursue cuts to private duty nursing or the proposed 125 visit limit on home health care. The State will also develop budget neutral community-based alternatives for enrollees who require long-term nursing home care.

### **John B. Case**

#### **Background on the Case:**

- The original John B. lawsuit was filed in 1998. It resulted in a consent decree being issued in 1998 that among other things, included a commitment by the State

to provide a full array of screening and treatment services to children under age 21 covered by TennCare (approximately 500,000 kids).

- In 2001, the Court found the State was not in compliance with various aspects of this original consent decree and consequently appointed a Special Master to oversee the State's compliance.
- In 2002, the State formally requested that it not be required to provide the special screening/treatment services to those uninsured children on TennCare. That request has not yet been heard by the Courts and will not be heard under this settlement agreement.

**Highlights of the Agreement:**

The State has agreed to withdraw the benefit reductions and cost-sharing increases that were proposed. The proposed settlement affects only this aspect of the John B. lawsuit.

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***Short Version:***

Highlights of the Agreement for TennCare:

- Enrollees, who have been prescribed prescription drugs that require prior approval, will receive a 3-day supply rather than a 14-day supply while waiting for prior approval.
  - Children who have successfully appealed their care will not lose their care or appeal rights if they enter a youth development center.
  - 40,000 enrollees who were terminated from TennCare when they went to the Department of Human Services for redetermination after July 1, 2002 can re-apply because many were wrongfully terminated.
  - Benefit reductions and increased cost sharing for 261,000 TennCare Standard enrollees will be withdrawn. Current cost-sharing guidelines will stay the same.
  - Enrollees will have no limits on home health care that are medically necessary and cuts to private duty nursing will be withdrawn by the state. Budget neutral community-based alternatives for enrollees will be pursued.
  - All children under the age of 21 will be provided a full array of medical, behavioral, and developmental screening and treatment services, including dental and vision services
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This proposed settlement agreement must still be approved by a federal court next, but has been agreed to by the State and the Tennessee Justice Center. This is a significant accomplishment in our efforts to improve TennCare and will have a tremendous positive impact on the future of the program.