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January 8, 2015

The Honorable Sylvia Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

RE: Federal Court Decision Finding State of Florida Denies Medical Care to Children

Dear Secretary Burwell:

On December 29, 2014, United States District Judge Adalberto Jordan ruled that the State of Florida is in violation of federal law for systemic denial of health services to children as required by the Medicaid and Social Security statutes. The case was brought by the Florida Chapter of the Academy of Pediatrics and the Florida Academy of Pediatric Dentistry. Judge Jordan's findings of fact and conclusions of law reveal an outrageous and miserable history by the State of Florida of inadequately caring for children and meeting its legal responsibilities.

Specifically, Judge Jordan determined that Florida officials knowingly denied access to medical care to children by intentionally keeping medical reimbursement rates low, constricting available services and limiting access to necessary specialists. For example, Judge Jordan found that while the number of children served under Medicaid has increased, the state has maneuvered to limit the number of providers, in effect denying access to care. Even "well baby" visits for newborn infants have been restricted by the state. Judge Jordan also ruled that the State of Florida and its Agency for Health Care Administration ("AHCA") failed to provide Florida children with access to medical and dental care in accordance with the Early Periodic Screening, Diagnosis and Treatment program, Reasonable Promptness, Equal Access or Outreach requirements under 42 U.S.C. § 1396 *et seq.*

Judge Jordan found that although the state has responsibility to ensure that children enrolled in Medicaid receive dental care, 79% of the children enrolled are getting no dental services at all.

Florida children and families need your help and rigorous oversight. Over the past few years, I have worked with you and the Center for Medicaid and CHIP Services ("CMCS") to ensure that Florida's Medicaid Managed Care program met required standards of access to and delivery of care. Serious problems still exist and I respectfully request that you and the Centers

for Medicare and Medicaid Services (“CMS”) redouble your efforts in the light of the federal district court’s detailed accounting of so many specific Florida failures.

Unfortunately, current Florida policymakers have a poor track record when it comes to meeting its responsibilities for health services to its citizens. The state continues to resist bringing back \$50 billion of its own taxpayers’ money to expand Medicaid to adults. While the state may have legal authority to block the return of funds and health services to its citizens for Medicaid expansion, the state does *not* have the option to provide required medical services to children enrolled in Medicaid no matter what scheme is devised to deny care. Due to the state’s track record, it is particularly imperative that the U.S. Department of Health and Human Services (“HHS”) officials are actively engaged to ensure Florida meet its legal requirements to provide care to children of our state.

Your involvement is especially important as Florida Governor Rick Scott’s administration announced yesterday that instead of working to adequately address the inadequate care identified by the federal court, the state has requested millions of dollars to hire lawyers to fight the decision. Why the state wants to squander millions of taxpayer dollars to fight the ruling rather than address the shortcomings and provide the essential health services to children? I don’t know.

I urge HHS to closely monitor and work with Florida pediatricians, dentists and advocates to hold Florida officials’ feet to the fire as Judge Jordon proceeds to the remedy phase in the federal court case. You can find the court order here: <http://www.pilcop.org/wp-content/uploads/2012/01/1294-14-12-31-Findings-of-Fact-and-Conclusions-of-Law.pdf>

In the meantime, if I can be of assistance or you have any questions or comments, please do not hesitate to contact me at or my Legislative Director, Elizabeth Brown, at 202-225-3376.

Sincerely,



Kathy Castor
U.S. House of Representatives
Florida – District 14

cc: Marilyn Tavenner, CMS Administrator
Cindy Mann, CMS Deputy Administrator/Director for the Center for Medicaid and CHIP Services