

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

OSCAR SALAZAR, *et al.*, on behalf)
of themselves and all others)
similarly situated,)
Plaintiffs,)
v.)
THE DISTRICT OF COLUMBIA,)
et al.,)
Defendants.)

Civil Action No. 93-452 (GK)
In Forma Pauperis

CONSENT ORDER CONCERNING EPSDT NOTICE AND OUTREACH

WHEREAS, paragraph 39 of the January 25, 1999, Order Modifying the Amended Remedial Order of May 6, 1997 and Vacating the Order of March 27, 1997 (“Settlement Order”) states that defendants must require the MCO’s to provide a notice to every child, prior to that child’s due date, reminding him/her of an upcoming EPSDT visit;

WHEREAS, paragraph 39 of the Settlement Order also requires, *inter alia*, defendants to ensure that the MCO’s provide post-due date outreach to children who have missed an EPSDT visit. In the case of a missed visit, paragraph 39 of the Settlement Order requires two steps: (1) a telephone call or mailed reminder that an EPSDT visit has been missed; and (2) if there is no response, a personal visit to encourage the family to bring the child for an EPSDT screening visit; and

WHEREAS, on November 28, 2007, pursuant to paragraph 80 of the Settlement Order, plaintiffs provided defendants with notice that plaintiffs assert that defendants are in violation of the requirements of paragraph 39 of the Settlement Order; and

WHEREAS, the District of Columbia asserts that certain outreach requirements contained in paragraph 39 of the Settlement Order are neither effective nor efficient; and

WHEREAS, since November 28, 2007, the parties have engaged in good-faith negotiations to attempt to resolve the matters raised in plaintiffs' notice letter without the intervention of the Court; and

WHEREAS, the parties have reached a partial agreement regarding modifications to certain of defendants' notice and outreach obligations under paragraph 39 of the Settlement Order; and

WHEREAS, all provisions of paragraph 39 of the Settlement Order, except as specifically modified herein remain in full force and effect; and

WHEREAS, the District of Columbia has contracted with George Washington University to conduct a study to determine the most effective and efficient means of encouraging increased use of EPSDT services; and

WHEREAS, the parties expect to submit a further Consent Order to the Court modifying the remaining obligations of defendants for face-to-face outreach under paragraph 39 of the Settlement Order after the conclusion of this study by George Washington University; and

WHEREAS, George Washington University estimates that the study will be completed by September 30, 2010;

NOW THEREFORE, BASED ON THE CONSENT OF THE PARTIES, AND THE ENTIRE RECORD HEREIN, IT IS THIS 27th DAY OF April, 2009:

The description of "every reasonable effort" in paragraph 39 of the Settlement Order with respect to "EPSDT screens and laboratory tests set forth in the District of Columbia periodicity schedule issued in accordance with 42 U.S.C. 1396d(r)(1)(A)(i), 1396d(r)(2)(A)(i), 1396d(r)(3)(A)(i), 1396d(r)(4)(A)(i), [and] immunizations" (hereafter "EPSDT screening visits") is hereby modified to remove the following requirements: "a telephone call or mailed reminder prior to the due date of each

visit, scheduling of appointments for recipients, and, in the case of a missed appointment, a telephone call or mailed reminder for the first missed appointment.” Those requirements are vacated with respect to EPSDT screening visits and replaced with the following paragraphs 39A-39D.

39A. Notice to Each Child Prior to the Due Date of EPSDT Screening Visit Appointments for Children under Age 2 Years. For children from birth to age 2, defendants shall ensure that the MCO’s provide two pre-due date notices each year of upcoming EPSDT screening visits for which the child is due (*i.e.*, a total of four notices from birth to age 24 months). Such notice may be in the form of a telephone call or mailed reminder.

39B. Notice to Each Child Prior to the Due Date of EPSDT Screening Visit Appointments for Children from Ages 2 to 21 Years. For children from age 2 to 21 years, defendants shall ensure that the MCO’s provide one pre-due date notice of the upcoming EPSDT screening visit for which the child is due each year (*i.e.*, one annual notice for children aged 2 to 21 years). Such notice may be in the form of a telephone call or mailed reminder.

39C. Outreach to Each Child who Has Missed an EPSDT Screening Visit for Children from Birth to Age 21 Years. For children from birth to age 21 years who have missed an EPSDT screening visit (*i.e.*, who are more than 45 days overdue for an EPSDT screening visit), defendants shall ensure that the MCO’s provide outreach encouraging the family to bring the child to the doctor for the EPSDT screening visit. Such outreach may be in the form of a telephone call or mailed reminder.

39D. Reporting Regarding Compliance with Paragraphs 39A-39C. Defendants shall provide reports to ascertain compliance with paragraphs 39A-39C to plaintiffs and the *Salazar* Court Monitor in the form attached hereto as Exhibit A every six months. The six-month

reporting periods shall be April 1 through September 30, with the written report for that period due on December 1; and October 1 through March 31, with the written report for that period due on June 1. Defendants shall provide the first report on or before December 1, 2009.

AGREED:

/s/ Kathleen L. Millian

BRUCE J. TERRIS, Bar #47126
KATHLEEN L. MILLIAN, Bar #412350
LYNN E. CUNNINGHAM, Bar #221598
ELISABETH LYONS Bar #420504
Terris, Pravlik & Millian, LLP
1121 12th Street, N.W.
Washington, DC 20005-4632
(202) 682-2100, ext. 8478

JANE PERKINS
National Health Law Program
211 N. Columbia St., 2nd Floor
Chapel Hill, NC 27514
(919) 968-6308

Counsel for Plaintiffs

/s/ Robert C. Utiger

PETER NICKLES
Attorney General for the District of Columbia

ROBERT C. UTIGER, Bar #437130
Senior Counsel to Deputy Attorney General
for Civil Litigation
P.O. Box 14600
Washington, D.C. 20001
(202) 724-6532

Counsel for Defendants

IT IS SO ORDERED.

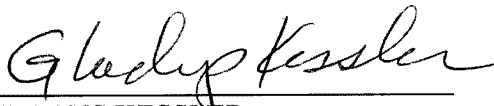

GLADYS KESSLER
UNITED STATES DISTRICT JUDGE

EXHIBIT A

Defendants will report at least the following information from each of the District of Columbia managed care organizations (MCO's) pursuant to paragraph 39D of the Consent Order Concerning EPSDT Notice and Outreach:

For paragraph 39A reporting every six months:

<p>Total Number of Children aged 0-2 (broken down by Form 416 age groups, <i>i.e.</i>, <1, 1-2)</p>	<p>Total Number of Children aged 0-2 who were provided with a notice that he or she is due for an EPSDT screening visit (in the six-month interval being reported on)</p> <ul style="list-style-type: none"> • break down the data by the number of telephone calls and the number of mailed reminders
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For paragraph 39B reporting every six months:

<p>Total Number of Children aged 2-21 who were due for an EPSDT screening visit in the six-month interval (broken down by Form 416 age groups, <i>i.e.</i>, 3-5, 6-9, 10-14, 15-18, 19-20)</p>	<p>Total Number of such Children aged 2-21 who were provided with a notice that she or he is due for an upcoming EPSDT screening visit (in the six-month interval being reported on)</p> <ul style="list-style-type: none"> • break down the data by the number of telephone calls and the number of mailed reminders
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For paragraph 39C reporting every six months:

<p>Total Number of Children aged 0-21 who did not receive the EPSDT screening visit for which they were due in the six-month interval (broken down by Form 416 age groups, <i>i.e.</i>, <1, 1-2, 3-5, 6-9, 10-14, 15-18, 19-20)</p>	<p>Total Number of Children aged 0-21 who were provided with a notice that she or he is more than 45 days overdue for an EPSDT screening visit and should schedule an appointment (in the six-month interval being reported on)</p> <ul style="list-style-type: none"> • break down the data by the number of telephone calls and the number of mailed reminders
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Note: A notice means a mailed reminder or a telephone call.