

J.K. Settlement Proposed Settlement

IN THE UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA

J.K., a minor by and through
R.K., et al., on behalf of
themselves and all others
similarly situated,

Plaintiffs,

vs.

CATHERINE R. EDEN, in her
official capacity as Director of
Arizona Department of Health
Services; LESLIE SCHWALBE,
in her official capacity as
Deputy Director, Division of
Behavioral Health Services;
PHYLLIS BIEDESS, in her
official capacity as Director of
Arizona Health Care Cost
Containment System,

Defendants.

No. CIV 91-261 TUC JMR

NOTICE OF PROPOSED SETTLEMENT

(CLASS ACTION)

(Assigned to the Hon. John
M. Roll)

TO: (1) All persons, under the age of twenty-one, who are eligible for Title XIX behavioral health services in the State of Arizona and have been identified as needing behavioral health services and

(2) Their parents and guardians.

Your rights will be affected by a settlement proposed in a lawsuit in the U.S. District Court of Arizona. Please read this Notice carefully.

I. WHAT THIS LAWSUIT IS ABOUT

This is a class action lawsuit brought on behalf of children in Arizona who need mental health and substance abuse services and are eligible for the federal Medicaid program, as described in Title XIX of the Social Security Act. The lawsuit

was filed against the Directors of three Arizona state agencies Arizona Health Care Cost Containment System (AHCCCS), the Arizona Department of Health Services (ADHS), and the Division of Behavioral Health Services (DBHS) ("the Defendants"). The lawsuit claimed the Defendants were violating federal Medicaid law by failing to provide timely and adequate mental health services to eligible children.

On March 20, 2001, the parties signed a Settlement Agreement to resolve this class action suit. The Agreement will not become final until class members have been notified of the Agreement and had a chance to object to or comment on it, and the Court grants final approval of the Agreement.

The purpose of this Notice is to summarize the Agreement and to explain how class members and their parents and guardians can object to or comment on it. You are a "class member" if you are under 21, eligible for Medicaid/AHCCCS health care, and in need of behavioral health services. If you are not a class member, but you are knowledgeable about and interested in the children's behavioral health system, you may also comment on the proposed Agreement.

II. SUMMARY OF THE SETTLEMENT

The Defendant state agencies have agreed to develop a behavioral health care system that will provide services to eligible children according to a set of Principles outlined in the Agreement (the "*J.K.* Principles"). A complete list of all the "*J.K.* Principles," as well as a statement of the "Arizona Vision," are attached to this Notice as Appendix "A." The *J.K.* Principles require that parents and children are treated as partners in the assessment process, and in the planning, delivery and evaluation of behavioral health services, and that their preferences are taken seriously. The *J.K.* Principles require that behavioral health services are provided to improve the child's functioning at school and at home and in a manner that respects the cultural heritage of the child and family. The *J.K.* Principles also stress that behavioral health services will be provided in coordination with other state agencies that may be involved in a child's life, such as Child Protective Services or the school system, although these agencies are not parties to the Agreement. The Agreement requires the Defendants to move as quickly as practicable to develop a behavioral health system that provides services according to these Principles.

The improvements contemplated by this Settlement Agreement emphasize partnering with families and children, interagency collaboration, and individualized services aimed at achieving meaningful outcomes for families and children. Implementation of this Settlement Agreement will require initiatives to improve front-line practice, enhance the capacity of private agencies to deliver needed services, promote collaboration among public agencies, and develop a quality management and improvement system focused on sound practice.

Some of the steps that the Defendants must take to develop a behavioral health system that provides services according to the *J.K.* Principles are:

- Developing and implementing a statewide training program to provide front-line staff and supervisors with the knowledge and skills to provide services to children according to the Principles. The State has allocated \$2 million dollars for this program.
- Implementing an initial program in two sites around the state to test strategies for providing behavioral health services according to the Principles.
- Changing the system the State uses to monitor services, so that it tells whether children are receiving services according to the *J.K.* Principles.
- Increasing the availability of providers who treat children who have been abused and neglected, or victims of sexual abuse, or those who also have developmental disabilities.
- Expanding substance abuse treatment services.

In addition, the Defendants must encourage active involvement of class members and their families, community stakeholders, providers, and other state agencies in planning and evaluation activities related to implementation of this Settlement Agreement.

This is only a summary of the Settlement Agreement. You may obtain a complete copy of the Settlement Agreement from the ADHS/DBHS website (<http://www.hs.state.az.us/bhs/>); Arizona Center for Disability Law website (www.acdl.com) the Bazelon Center for Mental Health Law (www.bazelon.org). You may also obtain a copy of the Agreement by calling the Division of Behavioral Health services at 602 553-9002, ask for Ali De La Trinidad. 1-800-367-8939 TTY

III. OPINION OF CLASS COUNSEL

The children of the class were represented by the Arizona Center for Disability Law, the Bazelon Center for Mental Health Law, the National Youth Law Center and Lewis & Roca. Class counsel believe that this Agreement serves the interests of the class.

IV. FAIRNESS HEARING - OPPORTUNITY TO COMMENT

A hearing on the fairness of the Settlement Agreement will be held on **JUNE 26, 2001** at **8:30 AM** before Judge John Roll, U.S. District Court, 405 West Congress, Tucson, Arizona 85701. At this hearing, the Court will consider whether to grant final approval of the proposed Settlement Agreement.

You have the right, before the hearing, to make written objections to the terms of the Settlement Agreement, and/or to write a statement in support of the proposed

Agreement. If you object to the Agreement, you should explain your reasons for objecting. Written comments should be mailed or emailed to jk@acdl.com no later than **June 1, 2001**, to:

Arizona Center for Disability Law
3839 North Third Street, Suite 209
Phoenix, Arizona 85012

The attorneys for the class will collect any written comments and provide them to the Defendants and to the Court. If you wish to appear to testify at the fairness hearing, you should make that request in writing at the time you submit your written comments. You do not need to personally appear at the fairness hearing to have your written comments considered by the Court.

The Court will review all objections from class members and their parents/guardians. After the fairness hearing, the Court will decide whether to finally approve the proposed Settlement Agreement.