

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KENNY A., by his next friend Linda Winn, et al.,	:	
	:	
Plaintiffs	:	CIVIL ACTION
	:	
vs.	:	1:02-cv-1686-MHS
	:	
SONNY PERDUE, et al.,	:	
	:	
Defendants	:	
	:	

**JOINT STIPULATION AND ORDER TO MODIFY THE CONSENT
DECREE REGARDING REIMBURSEMENT RATES FOR PLACEMENTS**

WHEREAS, on October 28, 2005, this Court approved and entered a Consent Decree between Plaintiffs and State Defendants,¹ to resolve Plaintiffs’

¹ The “State Defendants” include Sonny Perdue, in his official capacity as Governor of Georgia; the Georgia Department of Human Resources (“DHR”); B. J. Walker, in her official capacity as Commissioner of the Georgia DHR; the Fulton County Department of Family and Children Services (“DFCS”); Dannette Smith, in her official capacity as Director of the Fulton County DFCS; the DeKalb County DFCS; and Walker Solomon, in his official capacity as Director of the DeKalb County DFCS. The term “State Defendants” does not include Defendants Fulton County and DeKalb County, the claims against which were separately resolved in two county-specific settlements concerning Plaintiffs’ “right-to-counsel” claims. (See Consent Decree (Oct. 28, 2005) (Dkt. No. 488); [Fulton County] Consent Decree (Feb. 13, 2006) (Dkt. No. 519); Consent Decree Between Plaintiffs and DeKalb County, Georgia (Mar. 23, 2006) (Dkt. No. 525-4).)

claims against the State concerning, among other things, the care, treatment, placements, services, and protection provided to the Plaintiff Class of foster children in state custody in Fulton and DeKalb Counties (the “Consent Decree”). (Dkt. No. 488.)

WHEREAS, Section 5(B) of the Consent Decree requires, among other things, the establishment of a Reimbursement Rate Task Force (“RRTF”) to create a rate structure for all placements other than base-level foster homes based on the reasonable costs of achieving measurable outcomes for all children in foster care.

WHEREAS, certain revisions required by the federal government concerning the “unbundling” of Medicaid-reimbursable services in Georgia contributed to delays getting the RRTF work underway.

WHEREAS, when certain revisions required by the federal government concerning the “unbundling” of Medicaid-reimbursable services were implemented on July 1, 2008, the original RRTF members were no longer available to serve on the RRTF due to other professional commitments.

WHEREAS, after much reasoned consideration and discussion, the parties agree, and request Court approval, to modify the Consent Decree as follows:

1. Section 5(B)(2) of the Consent Decree shall be replaced and superseded in its entirety by the following:

By July 1, 2009, DHR/DFCS shall establish a Reimbursement Rate Task Force. The Reimbursement Rate Task Force shall accept and shall not revise the base-level rate for the provision of family foster care services (including kinship care) as defined in subsection 1 above. The Reimbursement Rate Task Force shall create a rate structure based on measurable outcomes for all children in foster care (excluding basic, non-therapeutic foster family care) based on the reasonable cost for achieving these outcomes. The Reimbursement Rate Task Force shall examine the existing Room, Board, and Watchful Oversight rates (or any similar reimbursement rate structure, should the reimbursement rate structure be changed during the course of the Task Force's assignment) and make recommendations for either revising or replacing those rates, and shall also consider the results of any pilot programs being carried out across the state. The rate structure established by the Reimbursement Rate Task Force must comply with Title IV-E and Medicaid funding guidelines so that DHR/DFCS can draw down such funds.

2. Section 5(B)(3) of the Consent Decree shall be replaced and superseded in its entirety by the following:

The rate structure established by the Reimbursement Rate Task Force shall serve as the basis for performance-based contracting, and shall be phased in beginning 90 days after the Reimbursement Rate Task Force issues its findings, provided that the rates fixed by the Commissioner must be fully implemented in the contracting cycle beginning July 1, 2010.

3. Section 5(B)(6) of the Consent Decree shall be replaced and superseded in its entirety by the following:

The Reimbursement Rate Task Force shall be composed of the following members: Abel C. Ortiz, Carl Valentine, and Jennifer

Miller. The Task Force may meet when necessary in order to accomplish its duties, and shall work to finalize its recommendations in the most efficient and economical manner possible. The Reimbursement Rate Task Force shall have access to data, documents and information needed, and shall otherwise have the support needed to carry out its duties. DHR shall reimburse the members of the Task Force for approved expenses and fees incurred in performing its duties, in accordance with state regulations.

4. Section 5(B)(7) of the Consent Decree shall be replaced and superseded in its entirety by the following:

The Task Force shall make every effort to present its findings no later than December 31, 2009, unless the Task Force requests and the parties consent to an extension for the presentation of findings. The Task Force shall include recommendations on the priority for implementing its findings.

The parties agree to, and request the Court's approval and entry of, this Joint Stipulation and Order to Modify the Consent Decree Regarding Reimbursement Rate for Placements. Except as modified herein, all other provisions of the Consent Decree entered by this Court on October 28, 2005, or further Orders of this Court, shall remain in full force and effect.

SO STIPULATED BY THE PARTIES, June 29, 2009, by:

s/ Jeffrey O. Bramlett

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ATTORNEYS FOR STATE DEFENDANTS

IT IS SO ORDERED, this ____ day of _____ 2009.

Marvin H. Shoob, Senior Judge
United States District Court
Northern District of Georgia

CERTIFICATION PURSUANT TO LOCAL RULE 7.1D

I hereby certify that the foregoing brief has been prepared in 14-point Times New Roman, one of the typeface and point-size selections approved by the Court in Local Rule 5.1C.

/s/ Jeffrey O. Bramlett

Jeffrey O. Bramlett