

Overview of the *Rosie D. vs. Romney* lawsuit

In 2002, a class action lawsuit, *Rosie D. vs. Romney*, was filed in federal court on behalf of children with serious psychiatric disabilities. The lawsuit was brought on behalf of eight named plaintiffs who were hospitalized or at risk of hospitalization due to the state's failure to provide needed services to allow them to live at home and attend local schools. The lawsuit claimed that the Commonwealth violated the Medicaid Act, specifically the provisions governing treatment for children called EPSDT.

In late spring 2005, a six week trial took place. More than 30 witnesses testified about the effectiveness of home-based services, the state's failure to provide these services, the thousands of children who need these services and the harm that takes place when these services are not available.

In January 2006, Judge Michael Ponsor ruled in a landmark decision that the Commonwealth is violating the federal Medicaid Act by failing to provide home-based services to an estimated 15,000 children with serious emotional disturbance. The ruling went on to note that Massachusetts also did not adequately provide screening, in-home behavioral and crisis services, case management and care coordination. The Court observed that Massachusetts knows how to provide effective treatment but has only done so in a few pilot programs.

Each side met to discuss elements of the remedy from February to July 2006. At that point, it became clear that consensus was not going to be forthcoming. Each side submitted their remediation plan to the court in August 2006. Revised remedial plans with expert affidavits were filed and a hearing on the plans was held in mid-December. The Court agreed to decide several issues including the need for timelines, which children will actually receive services and what discretion the state holds.

On February 22, 2007, Judge Ponsor issued a decision on the remedy. The court approved the state's remedy, subject to several provisos. First, any child who meets the criteria for serious emotional disturbance (SED) defined by IDEA or SAMHSA is eligible for services. Also, the remedy set out in the state's plan is mandatory and may modified except by agreement of both parties or the court. The state's plan is a final order, not a proposal. Lastly, the judge set out highly defined timelines for each part of the remedy. A court monitor will be appointed to oversee the implementation of the remedy.