

Opening Statement
Dennis Kucinich, Chairman
Domestic Policy Subcommittee
Oversight and Government Reform Committee
Medicaid's Efforts to Reform since the Preventable Death of Deamonte Driver:
A Progress Report
October 7, 2009

On February 25, 2007 Deamonte Driver, a twelve- year-old boy from Prince George's County, Maryland, died from a brain infection caused by untreated tooth decay. Deamonte's tragic death could have been easily prevented by access to dental care--dental care he was entitled to and should have received through United HealthCare, Maryland's Medicaid dental provider. Unfortunately, that company failed to meet its obligation to provide beneficiaries with access to dental providers. So onerous were the administrative barriers United HealthCare had created, "it took one mother, one lawyer, one online help supervisor, and three case management professionals to make a dental appointment for one Medicaid child," according to testimony we received from Laurie Norris, a legal advocate who worked with the Driver family.

In the two-and-a-half years since Deamonte's preventable death, this Subcommittee has been conducting an inquiry into the adequacy of

efforts on the state level to ensure access to pediatric dental services under Medicaid, as well as the actions the Center for Medicaid and State Operations, CMS, to conduct oversight of state systems.

At our first hearing in May 2007, we learned that Deamonte Driver was not the only Maryland youth who wasn't receiving dental care to which he was entitled by Medicaid. In fact, our investigation of United HealthCare found that approximately 11,000 Maryland children, in United HealthCare's Medicaid operation, had not seen a dentist in at least four years. We found that United HealthCare provided information to Medicaid beneficiaries that was so inaccurate and outdated, it would have been virtually impossible to find a dental care provider.

We also learned CMS did virtually nothing to address the problems in poorly performing state systems. Dennis Smith, director of CMS at the time, argued that financial sanctions are the only tool CMS has to enforce compliance, and that he was unwilling to hand down financial sanctions because that cost was ultimately borne by the patient.

Simply put, this is not the case, and in a letter to Mr. Smith the Subcommittee outlined nine actions that CMS could take that would serve to enforce the statutory responsibilities that states have to ensure Medicaid-eligible children have access to dental services.

Our second hearing focused on CMS's response to this letter and actions taken by them in the year since Deamonte's death to address the deficiencies in its oversight responsibilities. While they did take some action, their efforts unfortunately fell short of effecting any real change. In fact, the hearing revealed that most of the progress that the state of Maryland made was despite CMS-- the agency was not actively involved in the state's efforts, and provided almost no guidance.

Additionally, CMS continued to neglect the issue of provider reimbursement rates, despite hearing testimony about the importance of them to effecting system-wide reform. Astoundingly, Mr. Smith even acknowledged as such at our first hearing, but stubbornly continued to

avoid the issue. Mr. Smith resigned from his post not long after our second hearing.

After that, things began to change. A GAO report, the first of its kind since 2000, revealed that millions of Medicaid-enrolled children suffer from tooth decay--almost one-third of the total Medicaid population. Medicaid children are roughly twice as likely as privately-insured children to suffer from tooth decay. Moreover, this pattern has persisted for years; very little had been done to improve access to and utilization of dental services. In a sense, the problem of tooth decay is getting worse because the rate of decay in the teeth of children aged two through five has increased in recent years.

Our third hearing on the issue demonstrated that improvement is possible. Under new leadership and continued Congressional scrutiny, CMS began to turn a corner. The interim director of the Center for Medicaid and State Operations outlined a number of actions that they had taken to engage states actively in reform as well as improve their

own oversight functions. They conducted 17 reviews of state systems with utilization rates below 30% and provided each state with its own report and recommendations; worked with states to develop oral health schedules that met federal guidelines; and formed an Oral Health Technical Advisory Group with state Medicaid directors.

We also learned that the state of Maryland, where this whole journey began, continued making considerable progress. The Dental Action Committee that they formed developed seven recommendations to improve access to dental care for Maryland's children; two ended up in the budget submitted by Martin O'Malley--the new governor of Maryland--and another was passed by the state legislature.

Today, GAO will share the findings of their most recent report, commissioned at the request of myself and Mr. Cummings, on the adequacy of pediatric dental oversight at the state and federal level. I am very thankful to the GAO for their hard work and dedication in studying this problem. We will also hear, for the first time, from the new director

of the Center of Medicaid and State Operations. I am looking forward to their report on the progress they have made and how they plan to use that momentum to address the gaps that remain as identified in the GAO report.

Additionally, we will hear from state Medicaid officials and researchers who have studied and implemented successful initiatives to increase access to and utilization of dental services, as well as improve provider participation.

I believe that CMS has turned a corner in their oversight of pediatric dental services since the death of Deamonte Driver. But the magnitude of the underlying problem is great, and even today, there are millions of children just like Deamonte--entitled to dental care, but not receiving it. The urgent job of everyone here today is to move quickly to prevent another one of them from dying from preventable dental disease.