EPSDT Creates Its Own Definition Of Medical Necessity.

The solution to this dilemma is found in the ingenious language of Paragraph 5, which states that all Medicaid-recipient children are entitled to: "(5) Such other necessary health care, diagnostic services, treatment, and other measures to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan."

If It's Necessary to Correct, It's Medically Necessary.

Paragraph 5 circumvents the "medically necessary" barrier by creating its own definition of medical necessity. If a treatment or service treats an illness or condition, then it's medical. If the treatment or service is "necessary to correct or ameliorate" then the treatment is "medically necessary". It's that simple.

And just to make sure the child can access the treatment, Paragraph 5 also states "whether or not such services are covered under the State plan". Such definitive language is the brain-injured child's ultimate Patient's Bill of Rights; if something works, the child has a legal right to it.

Period.

Paragraph 5 Eliminates Politics From Medical Decision-Making.

The first four paragraphs covering screening, vision, hearing and dental services declare treatments and/or services must be "indicated AS MEDICALLY NECESSARY" and "which meet reasonable standards of medical practice, as determined by the state."

It is no typographical error that "medically necessary" is not found in Paragraph 5. The authors knew it can 10, 15, or even 20 years before a treatment, procedure, drug, or device is finally categorized as "medically necessary".

Paragraph 5 is enforceable for Hyperbaric Oxygen Therapy even if some medical professionals are against HBOT. For screening, vision, dental, and hearing--services are contingent and conditional. Services are those "which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care."

These conditional requirements are noticeably absent from Paragraph 5 because the only requirement is whether or not a treatment is necessary to correct or ameliorate. In other words, it doesn't matter that not all medical professionals agree on the use of HBOT for brain-injury. Achieving agreement can take years and children don't have years.

Was Paragraph 5 Created for Hyperbaric Oxygen Therapy?

Because children don't have time for Medicine to first agree on new treatments, Paragraph 5 was added to the EPSDT statute in 1990.

In fact, both cerebral palsy children and under-oxygenated children were two of the main reasons Paragraph 5 was added. When first proposed by US Senator Lloyd Bentsen, he stated "this is for those children with special health needs--those with cerebral palsy," and, "...for those kids who have to be hooked up to ventilators in order to breathe."

Interestingly, there have been instances where ventilator-dependent children and adults have been weaned from ventilators via HBOT. One well-known case can be found at
http://www.musa.org/Stories/kevin_fickle.htm

SPECT Brain Imaging Proves HBOT is Necessary to Correct.

Numerous papers have been published in peer-reviewed medical journals on the use of SPECT to predict, prognosticate, and assess cerebral palsy and other brain-injuries. This has naturally paved the way for SPECT to also be used as a tool to demonstrate improvement.

In the case of Hyperbaric Oxygen Therapy, the efficacy of the treatment can be verified by objective, scientific analysis of SPECT-scan imaging before HBOT and then again after a certain number of hyperbaric treatments.

HBOT Through Medicaid's Paragraph 5 Has Already Been Legally Tested.

Parental demand for HBOT under the Medicaid law for children has already been tested in the courts. The parents won, despite objections by an orthopedic surgeon and numerous pediatric neurologists.

The child is an 8-year old boy whose mother and father obtained HBOT for him in 1999. The neurological improvement was significant and included development of complex speech in just 42 treatments. SPECT brain imaging before and after objectively documented the gains. The parents sought reimbursement from Georgia Medicaid but were denied. An administrative law judge upheld the denial. On appeal to the Superior Court, the denial was reversed in an overwhelming decision supporting both the Medicaid Law and the science of HBOT.

Virginia Paid First, Parents Are Asking in 28 Others.

The Georgia decision has become a model for parents seeking HBOT for their brain-injured children. To facilitate this process, a new listserv was formed to help access Medicaid reimbursement of HBOT. (To subscribe send a blank email to medicaidforhbot-subscribe@yahoogroups.com)

Virginia Medicaid first paid in 1998. North Carolina, West Virginia, and Missouri have said they'll pay. So has Florida. Texas Medical Assistance paid for an adult with brain-injury, which is even more difficult than a child.

Legal cases are pending in Arkansas, South Dakota, Colorado, and New Jersey. Parent requests are pending in Alaska, Pennsylvania, New Hampshire, Alabama, Mississippi, Oklahoma, Kansas, Michigan, Wisconsin, Kentucky, Indiana, Ohio, Texas, Maine, New Mexico, Arizona, New York, Utah, and Washington. There may be others.

The world is changing for the brain-injured child. Please join us in bringing about an even better quality of life for these children.

Parents will thank you.

And so will their children.