

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

SUSAN L. LANKFORD, et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
GARY SHERMAN, DIRECTOR, MISSOURI)	No. 05-4285-CV-C-DW
DEPARTMENT OF SOCIAL SERVICES, in his)	
official capacity,)	
)	
Defendant.)	

ORDER

Before the Court is Defendant's Response to the Court's March 2, 2007 Order. In the Response, Defendant asks this Court to enter final judgment ordering that Missouri has amended its DME program to comply with Medicaid's reasonable-standards requirement.

The Court entered a final judgment in this case when it granted summary judgment in favor of the Plaintiffs on March 2, 2007. In that Order, the Court required Defendant to notify the Court within thirty (30) days of the date of the Order as to the actions it was taking to comply with the Court's Order.

The only issue before this Court was the legality of the amendment of Mo. Code Regs. Ann. Tit. 13 § 70-60.010 (2005) that became effective September 1, 2005. When the Court asked Defendant to notify it of its actions, the Court did not raise the issue of the propriety of future legislation. Instead, the Court sought to strike the 2005 amendment and leave the decision as to whether to reenact the old regulations, strike all DME, or provide for a new system to the State of Missouri. The Court required an update solely to inform all the parties as to which route

Defendant would take.

Whether Defendant's current DME program complies with Medicaid's reasonable-standards requirement is not currently before the Court and the Court will not issue an advisory ruling as to any current or potential regulations. The Court finds that Defendant is in compliance with the requirements of the Court's March 2, 2007 Order. Any future actions by the parties shall be brought as either a new case or an action to enforce the Court's March 2, 2007 Order.

Date: January 23, 2008

/s/ Dean Whipple
Dean Whipple
United States District Judge