

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

<p>C.A. through their next friend P.A., C.B. through his next friend P.B., and C.C. through his next friend P.C., for themselves and those similarly situated,</p> <p>Plaintiffs,</p> <p>v.</p> <p>Kelly Garcia, in her official capacity as Director of the Department of Health and Human Services,</p> <p>Defendant.</p>	<p>Case No. 4:23-cv-00009-SHL-HCA</p> <p><b>DEFENDANT'S PARTIAL MOTION TO DISMISS PLAINTIFFS' COMPLAINT</b></p>
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COMES NOW Defendant Kelly Garcia, in her official capacity as Director of the Department of Health and Human Services, by and through counsel, and submits her Partial Motion to Dismiss Plaintiffs' Complaint. Fed. R. Civ. P. 12(b)(6). In support of her motion, Defendant states as follows:

1. Plaintiffs filed their Complaint on January 6, 2023. See Doc. 1.
2. Plaintiffs' Complaint alleges various violations of the Early and Periodic Screening, Diagnosis, and Treatment ("EPSDT") and "reasonable promptness" provisions of the Medicaid Act (Counts I and II), the Americans with Disabilities Act (Count III), and Section 504 of the Rehabilitation Act (Count IV). See Doc. 1, at ¶¶ 163-196.
3. Plaintiffs' claims regarding violations of the "EPSDT" and "reasonable promptness" provisions of the Medicaid Act should be dismissed, because Plaintiffs

have failed to plausibly allege sufficient facts to state a claim for relief. Fed. R. Civ. P. 12(b)(6).

4. Additionally, portions of Plaintiffs' claims rely on an untimely factual basis and should therefore be dismissed as outside the applicable statute of limitations.

5. Defendant has set forth her arguments in detail in the attached Brief in Support of Defendant's Partial Motion to Dismiss Plaintiffs' Complaint.

WHEREFORE, Defendant respectfully requests that Counts I and II of Plaintiffs' Complaint be dismissed. Defendant further requests that the Court dismiss any claim which relies on an untimely factual basis.

Respectfully submitted,

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**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on February 13, 2023:

- |   |  |
|---|--|
| <input type="checkbox"/> U.S. Mail  | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery  | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express  | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> ECF System Participant (Electronic Service) |  |

Signature: /s/Audra Jobst