

Judge David L.

BAZELON CENTER

for Mental Health Law

NEWS

Historic agreement reached to transition Illinois residents unnecessarily housed in large, dehumanizing nursing homes

CHICAGO, March 15, 2010 – A landmark agreement between the State of Illinois and thousands of persons with mental illnesses will result in significant reforms of Illinois' outmoded, overcrowded and scandalized nursing home system. The agreement, filed in federal district court in Chicago on March 15, 2010 will begin a systemic process of giving approximately 4,500 persons with mental illnesses the choice to move out of large nursing homes known as "Institutions for Mental Diseases" (IMDs) and into community-based settings with the support they need to be successful. These large, impersonal IMDs are operated in a manner that allows individuals little opportunity for independent living and personal growth.

Today's settlement, if approved by the court, will offer people who no longer want to live in these institutions the opportunity to move to community-based settings with the kind of care and services that are appropriate for their individual circumstance.

"This settlement is about people with mental illnesses in Illinois having the freedom to live their lives in ways we take for granted everyday, like making their own breakfast and buying their own groceries," said Jennifer Mathis, deputy legal director of the Bazelon Center for Mental Health Law.

"With appropriate supports, people with mental illnesses can live and thrive independently in the community and disprove the myth that they are unable to live on their own," added Karen Bower, senior staff attorney at the Bazelon Center.

The agreement is the latest development in the case *Williams v. Quinn*, originally filed in August 2005 by two individuals forced to live in Chicago area nursing homes. The process for transition outlined in the agreement builds on recently-released recommendations of the Governor's Nursing Home Safety Task Force. After examining the state's troubled and scandalized nursing home system, the Task Force concluded that "(t)here is . . . remarkable consensus that many people currently admitted to nursing homes with serious mental illness would be better cared for in specially designed and monitored community residential settings."

If the agreement reached between the parties is approved by the court, the State will develop a specific plan (in consultation with the plaintiffs' counsel) to transition those persons with mental illness currently housed in IMDs to community-based settings. Trained professionals will be hired to evaluate eligible members of the class who reside in IMDs to determine: a.) if they are able to transition to permanent supportive housing and other community-based settings; and, b.) what additional services will be necessary for each individual as part of the transition process. An individualized plan for each person will be developed, implemented and tracked.

"This is a momentous day for our clients," said Benjamin Wolf, associate legal director for the ACLU of Illinois, one of five legal organizations representing the plaintiffs. "It also is a good day for the people of Illinois. This agreement moves us from antiquated, failed policies that forced people into these large institutions and embraces the current best practice across the nation of permitting persons with mental illness to live in the most independent setting possible."

"We are pleased that the administration has made the commitment to improve the care and services provided to these often ignored citizens," said Donna Welch, a partner with Kirkland & Ellis, LLP.

The parties have agreed that the transition of all those eligible for transfer will take place over the next five years. It is estimated by most experts that a vast majority of the more than 5,000 persons with mental illness who are housed in IMDs across the State would flourish living in a community-based setting.

"Congress and the Supreme Court of the United States have found that unjustified institutionalization of people with disabilities is a form of discrimination under the Americans with Disabilities Act," said Barry Taylor, Legal Advocacy

Director at Equip for Equality. "By entering into this agreement, the State is demonstrating its commitment to making the ADA's promise of integration a reality for people with mental illness in Illinois."

Ironically, the agreement actually will relieve some of the state's financial burden created by housing individuals in IMDs, which are supported by 100% state funding. Not only will the costs be less expensive, but the state will be eligible to receive federal Medicaid reimbursements for medications and health care when an individual is receiving those services in a community-based setting.

"Illinois' antiquated policy has been bad for the individuals and costly for the State," added Ed Mullen, Managing Attorney for Community Integration at Access Living. "Estimates are that the State could save more than \$50 million over the next few years by transitioning residents from IMDs into the community. Given the state's current fiscal crisis, this is a welcome development."

Lawyers representing the plaintiffs are from a coalition of organizations, including Access Living, the Bazelon Center for Mental Health Law, Equip for Equality, the Roger Baldwin Foundation of the ACLU of Illinois and the Chicago office of the law firm Kirkland & Ellis.

The papers filed today ask Judge William Hart who is overseeing the case to schedule a "fairness hearing" to consider the specifics of the plan. Once the agreement is approved, the State and the advocates involved on behalf of the class of IMDs residents will move quickly to begin the planning process.

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