

Child and Civil Rights Advocates Sue State Over Mental Health System for Children on Medicaid

Children Unnecessarily Institutionalized, Separated from Families

JACKSON, Miss. March 10, 2010 – The SPLC Mississippi Youth Justice Project (MYJP), the Bazelon Center for Mental Health Law and local civil rights attorney Rob McDuff sued the state of Mississippi today in an effort to improve the state's mental health system for children, which currently fails to invest in community-based services and instead pumps the bulk of its resources into ineffective, expensive institutions.

The federal lawsuit alleges that the state fails to meet the needs of children in two fundamental ways. First, the state discriminates against children with mental illnesses by unlawfully separating them from their families and communities and by forcing them to cycle through psychiatric institutions that fail to provide adequate services. Second, the state ignores the ongoing needs of children with mental illnesses by failing to provide federally mandated and medically necessary home- and community-based mental health services.

The complaint was filed on behalf of thousands of children in the state of Mississippi who have been denied access to necessary mental health services in their homes and communities, and children who have been subjected to unnecessary institutionalization. It was filed in the U.S. District Court for the Southern District of Mississippi, Jackson Division.

"Tragically, the state of Mississippi has created a situation where many parents must choose between hospitalizing their children or foregoing mental health services altogether," said SPLC staff attorney Vanessa Carroll, lead attorney in the case. "We are hopeful that the Department of Mental Health will recognize that immediate action is necessary to save this generation of Mississippi's children from needless institutionalization."

Mississippi's mental health system is defined by an over-reliance on institutions where hundreds of children with behavioral and emotional disorders cycle repeatedly through hospitals, emergency rooms, acute care facilities and residential centers. When children leave these facilities, they rarely receive necessary follow-up treatment. They can wait months for an appointment at a community health center, and too often the services are inadequate, the lawsuit says.

"It is absolutely possible for Mississippi to have a mental health system built on the strengths and needs of children and families, rather than large, segregated institutions," said Ira Burnim, legal director for the Bazelon Center for Mental Health Law in Washington, DC. "The state must move to a home- and community-based system of care where children receive more effective treatment and services without being forced to endure the trauma, disruption and isolation of prolonged institutionalization."

The lawsuit cites a 2008 report by a state legislative committee that found Mississippi is one of the few states that has yet to follow a national trend established more than 15 years ago that favors treatment outside of institutions.

Mississippi, in fact, ranks second nationally in per-capita spending for institution-based mental health care, according to a 2008 report by the Joint Legislative Committee on Performance Evaluation and Expenditure Review. While other states, on average, devote 70 percent of their mental health expenditures to community-based care, Mississippi devotes just 44 percent.

The lawsuit describes the case of J.B., a 17-year-old boy from Grenada County with a history of trauma and abuse. He was placed in the custody of the Department of Human Services at a young age and grew up in a variety of hospitals and institutions in Mississippi. In 13 years in the foster care system, J.B. has been hospitalized at least five times and placed in five different residential treatment facilities and more than 10 group homes and shelters. He has also been locked in a secure detention facility at least a dozen times when his mental health needs and behavior became unmanageable.

J.B. has never received intensive home- and community-based services or therapeutic foster care – services he needs and is entitled to receive under federal law. He has spent the past nine months in a residential treatment facility and remains there for the purpose of beginning a job-training program – an activity that could easily be accommodated in a community-based setting. However, J.B.’s community mental health center does not offer any intensive home- or community-based services. Consequently, when J.B. is discharged, he will once again be forced to go without the services he needs.

“The lack of adequate and appropriate services and follow-up after discharge in the current system all but guarantees that youth will return to the system as adults,” said Mary Troupe, director of the Coalition for Citizens with Disabilities. “We are failing our children.”

Troupe and other advocates say Mississippi can comply with federal law by de-emphasizing institutional care and using the savings to fund services that will help children remain in their communities.

“We are already paying a high price with Mississippi’s current ineffective mental health system,” Troupe said. “It would be less expensive and more effective to provide intensive mental health treatment to children without ripping them apart from their families.”

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The Mississippi Youth Justice Project is a project of the Southern Poverty Law Center, a nonprofit civil rights organization. For more information, visit www.splcenter.org.