

Chambers v. City and County Of San Francisco:

SUMMARY OF SETTLEMENT AGREEMENT

UPDATED: November 20, 2007

BACKGROUND

On November 14, 2007, the Parties notified federal District Court Judge William Alsup that they reached a Settlement Agreement in the class action lawsuit, *Chambers et al. v. City and County of San Francisco*, Case No. C06-06346. The Settlement Agreement needs to be formally approved by the Board of Supervisors of the City and County of San Francisco, the City's Health Commission and the Court. A fairness hearing is anticipated to be scheduled early in 2008.

The action was originally filed October 11, 2006 by six residents of Laguna Honda Hospital and the Independent Living Resource Center (ILRCSF) in San Francisco to challenge San Francisco's discriminatory actions under the Americans with Disabilities Act resulting in their unnecessary institutionalization. These residents prefer, and have been determined to be capable of, living in their own homes and in the community. The purpose of the Settlement Agreement is to enhance community-based living options, through the provision of services and housing, to class members.

The case was brought by Protection and Advocacy, Inc. (PAI) as lead counsel, with co-counsel from Disability Rights Education and Defense Fund (DREDF), AARP Foundation Litigation, the Bazelon Center for Mental Health Law, and the law firm of Howrey LLP (pro-bono).

The class – which consists of Medi-Cal recipients who reside at LHH, are on the waitlist for LHH, are within two years post discharge from LHH or are patients at SFGH and are eligible for discharge to LHH – was certified by the Court in July, 2007.

SUMMARY OF SETTLEMENT AGREEMENT

Below is a summary of the substance of the Settlement Agreement.

- Provisions for Named Class Members: San Francisco will provide community-based services for all named plaintiffs within a reasonable timeline, and will provide additional as-needed services to those named plaintiffs already in the community.
- Medi-Cal Nursing Facility A/B (NF/AB) Waiver: The NF/AH Waiver is one of several State-run Medi-Cal programs that provides class members with the option to choose from a variety of in-home long-term care services, rather than receive services in an institution. There are currently 500 waiver slots available to LHH residents which will provide home and community-based services of up to \$77,600 per year per individual at no cost to San Francisco. San Francisco will provide access to individual housing and ensure the availability of non-profit agencies to provide waiver services to eligible individuals. The settlement agreement sets forth steps that San Francisco will take to make these services operational and available in San Francisco, including referral and assessment, recruitment of providers and housing to match with waiver services.
- Creation of a Diversion and Community Integration Program, (DCIP): San Francisco will establish a collaborative unit comprised of City staff, which will conduct assessments and prepare a Community Living Plan for each class member referred to and/or recommended for discharge from LHH. One function of the DCIP will be to provide an integrated approach for individuals referred for admission to, and diversion and discharge from, LHH, with the goal of placing those individuals in the most integrated setting that is appropriate to their needs and preferences. The Community Living Plan will set forth the services to be provided for class members to live in the most integrated setting based on their assessed need and preferences.
- Provision of/Referral for Case Management and Wrap-Around Services: San Francisco shall refer class members for or provide them with case management and appropriate wrap-around services, (i.e., personal care, home nursing, meals, money management, transportation, etc.), as identified in their Community Living Plan.

- Providing Access to Affordable, Accessible Community Housing: San Francisco will take steps to ensure access to affordable, accessible housing for class members. One of the most significant programs is development of the LHH Rental Subsidy Program which, over the next five years, will secure 500 units of scattered site, accessible, independent housing subsidized by San Francisco to be made available to class members who are eligible for community-based services, under programs such as Home and Community-Based Waivers, Mental Health, and the PACE programs. Additional steps to increase class members access to housing under the Agreement include: 1) steps to maintain and preserve class members' housing during periods of hospitalization or institutionalization; 2) providing housing options, other than independent housing subsidies, as appropriate and preferred by class members, including supportive housing and assisted living and subsidies to licensed residential care facilities; 3) modifying units as necessary and feasible, as well as providing and retaining wheelchair accessible housing units for class members who need such units; and, 4) developing a housing inventory and waitlist data base.
- Enhancement of Mental Health/Substance Abuse Services: San Francisco will: 1) provide access to appropriate primary care and mental health services in the community; 2) conduct and make recommendations as to coordination of mental health services at LHH and in the community; and, 3) provide access to community-based mental health services, and Intensive Case Management as appropriate, for all eligible class members.
- Laguna Honda Hospital: Plaintiffs are not in agreement that San Francisco should rebuild Laguna Honda with as many as 780 skilled nursing facility beds; however, if San Francisco does rebuild, the Parties agree that the mission of the rebuilt LHH facility shall include as a goal that the facility is for short-term, rehabilitative treatment. The operational focus of the rebuilt LHH will emphasize providing medical and other services and supports with a focus on enhancing community living skills to enable class members to successfully age in place in the community with appropriate services and supports. San Francisco will provide a full range of transition services to class members residing at LHH to facilitate transition to the community, including but not limited to: habilitation, choice counseling, and mental health services.

- Grievance Procedures for Class Members: San Francisco will provide a Grievance Procedure(s) that class members who disagree with City action(s) taken under the agreement can use. Notice of the procedures and information about how to reach PAI will be included.
- Data Collection and Reporting: San Francisco will report to Plaintiffs' counsel on key aspects of implementation and meet with Plaintiffs' counsel on a regular basis.
- Quality Assurance: San Francisco will provide quality assurance and monitor overall implementation of the agreement and implementation of class members' Community Living Plans -- including review of client files, personal visits with clients, and tracking grievances.
- Monitoring of Implementation of the Settlement: PAI will monitor implementation of the Settlement Agreement, including ensuring that San Francisco is providing agreed-upon relief to class members through review of reported data, samples of client files and progress reports from San Francisco, quarterly meetings between the Parties, and consulting with experts as necessary.
- Duration and Enforcement of the Settlement; Form of the Judgment/Settlement: The enforceable Settlement Agreement is expected to be implemented within three years for most provisions. Securing 500 units of independent housing for class members can take up to five years to implement. Disputes, under the Agreement, will be resolved by mediation and binding arbitration. The Court retains jurisdiction over the Settlement Agreement to enforce arbitration decisions and modify the Agreement if needed.
- Attorneys' Fees and Costs: Subject to Court approval, San Francisco will pay Plaintiffs' attorneys' fees and reimburse Plaintiffs' counsel for monitoring costs up to a capped amount.
- Waiver/Release of Claims: Individual claims for damages by class members are not waived.