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#604

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May 22, 1996

U.S. v. District of Columbia



NH-DC-001-028

**The Honorable Thomas F. Hogan
U.S. District Court for the District of Columbia
333 Constitution Ave, NW, 4th Floor
Washington, DC 20001**

**Re: The United States of America v. The District of Columbia, et al., Civ. No. 95-948, TFH,
D.C. Village Nursing Home (DCV), Court Order, July 6, 1995;
November 7, Order Modifying Stipulated Order of July 6, 1995;
Court Order, December 22, 1996;
Court Order, February 23, 1996**

Dear Judge Hogan:

This is an update on the outplacement of the residents of DCV to their new homes since my May 9 letter to the Court.

There are 49 residents remaining at DCV. Of this number 30 residents have no identified outplacement site. This is of very serious concern, especially in light of the District of Columbia's arbitrary and artificial projected closing date of May 31, 1996 - next week. Pursuant to the Court Orders, residents must be outplaced to the most appropriate sites to meet their individual needs.

The Mayor of the District was briefly at DCV on Monday afternoon, May 20. According to the Interim-Administrator for Long Term Care, the purpose of the visit was to see the staff, the residents, and to inspect the facility, auditorium, etc., for the Summer Youth Services Initiative and Leadership Program which is scheduled to commence at DCV on June 24. Representatives from this program toured with the Mayor.

I met with the Mayor briefly and told the Mayor that the facility cannot close until all the residents are appropriately outplaced to sites which can meet their individual needs; that there are a number of residents who have no site identified to date; that between now and next week it is highly unlikely appropriate sites will be found; and that the residents now left at DCV are the District's most vulnerable citizens. I told the Mayor that Dr. Harvey Sloane the Commissioner of Public

Health and I were meeting with the D.C. Health Care Association (DCHCA) on Tuesday to make them aware of the need for outplacement sites within the District, and to plead with them to accept the residents. DCHCA consists of the administrators of the 20 nursing homes within the District of Columbia. I also told the Mayor that I am prepared to meet with each facility to review the residents needs and to facilitate a smooth transition from DCV to their new homes. I also told the Mayor that I am willing to take any proactive steps to help the residents of DCV find the most appropriate new homes. The Mayor stated that in "government if you don't give deadlines you never get anything done" and that of course the facility would not be closed until the residents have a home.

I am confident that the Mayor understands that the residents cannot be outplaced until the most appropriate sites are identified to meet the residents individual needs pursuant to the Court Orders.

On Monday evening at DCV a meeting was held for the residents with no identified outplacement site, their family members, and guardians. If a family member had a preference for a particular nursing home for their relatives, they were encouraged to contact that facility directly, because family intervention is often persuasive to long term care facility operators. In addition family members were encouraged to contact Ms. Corrie Kemp in the Social Services Department and the Ombudsperson, Ms. Sarodel Childs. There was genuine love and concern among family members and guardians present.

Dr. Sloane, myself, and Ms. Gladys Fountain did meet yesterday, Tuesday, with DCHCA at their luncheon meeting held this month at Hadley Hospital (site of Hadley Skilled Nursing Facility which has accepted 39 DCV residents) and each of us spoke briefly. I introduced myself as representing the residents and the Court, and identified the nursing homes in the District that have and have not accepted and admitted DCV residents. I also offered to work with the facilities as often as necessary, to meet with their administrators, directors of nursing, direct care staff, social workers, and admissions coordinators to effect a smooth transition. I believe Dr. Sloane, Ms. Fountain, and I presented a concerned, dedicated, and cohesive effort to help the community help the residents. We invited the attendees to "come down the hill" (which is where DCV is geographically from Hadley Hospital) and meet the residents.

The residents remaining at DCV with no identified outplacement site are no different from any other nursing home population, except for the fact they do not have a home. Also, a number are younger than the average age nursing home population and, therefore, could benefit by being meaningfully engaged in their environments through vocational programs as identified in my May 9 letter to the Court on page four.

A tribute to a municipality is the ability to care for its citizens who have no one else to care for them and no place else to go. DCV played this role for many years, this chapter must end with dignity. The feelings and atmosphere of sadness, bewilderment, and rejection among the remaining residents at DCV is perhaps best captured by Mr. M.W., 40 years old, who profoundly

asks these simple questions:

"Don't other facilities realize that the DCV residents are homeless?"

"Are the [outplacement team] just giving up?"

"What happens to the ones that have been refused [by other nursing homes]?"

"Is May 31, really DCV closing date?"

A weakness in the District's long term care system is highlighted by the outplacement process at DCV. There is a lag between the needs of the current long term care resident eligible population in the District and the services facilities are willing to provide. The fact that there are so many residents remaining with no identified outplacement site partly relates to the fact that there are few options to placement other than institutionalized long term care. The District of Columbia lags behind most all jurisdictions in this country in applying for medicaid waivers to redirect federal funding from institutional to community based long term care. Redirecting funding affords more appropriate and greater variety of care settings options for individuals requiring long term care.

The need for a medicaid waiver for institutionalized long term care was first identified in my November 30, 1995, Status Report to the Court on page 22. Required for that were the Annual Cost Reports and the Budget for DCV which were never forthcoming from the defendants. With a medicaid waiver, creative and appropriate sites can be identified and developed to meet the changing profile and needs of the long term care population. Medicaid waivers usually afford care to be given in settings more cost effective than institutional long term care. For the best interests of the long term care resident population of the District of Columbia and for the nation's capital city to become responsive to current trends and needs in long term care, the District must avail itself of this care option and put behind its inexplicable failure to do so to date.

Residents with Mental Retardation

There is still no identified outplacement site for Mr. P.L. Tomorrow morning, Wednesday, May 22, there is a meeting at DCV with Georgetown University Child Development Center (GUCDC) to discuss Mr. P.L. Mr. P.L.'s last medical evaluation was conducted one year ago. According to some GUCDC staff, given his fragile medical condition, a re-evaluation of his medical status by experts in mental retardation identified by GUCDC would be in order. Some have speculated that perhaps an appropriate site would be Health Care Institute. This is the where the three medically fragile residents, Ms. A.B., Ms. C.L., and Ms. C.W. were outplaced in March. GUCDC provides on-site training of staff and interaction with the residents several times a week pursuant to the Court Orders and for the best care interests of the residents. According to GUCDC the Health Care Institute staff find GUCDC's input very valuable for their care-giving to these residents.

Enrollment and attendance at off-site day programs have not begun for the two residents, Ms. A.R. and Mr. K.F., outplaced to Wholistic Habilitative Programs. The Individual Habilitation Plans for three of the six residents at D.C. Family Services identifies attendance at off-site day

programs. To date sites have not been identified. The District must follow-through with identifying and enrolling the residents with all due attention and haste pursuant to the Court Orders commencing with the July 6 Court Order. The defendants' case managers at the Mental Retardation and Developmental Disabilities Administration must ensure that the day program provisions of the July 6, 1995, Court Order are enforced and that the residents with mental retardation constitutional rights are protected.

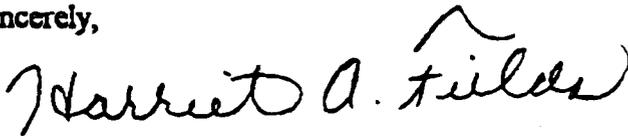
National Patient Care Systems received payment of \$47,861,000 on Monday, May 20.

Ms. Alberta Brasfield, Executive Director of DCV and the licensed nursing home administrator, is to become administrator at Stoddard Baptist Nursing Home on June 3.

The identification of outplacement sites for the remaining residents at DCV will be carefully monitored to ensure that the residents are outplaced to the most appropriate settings to meet their individualized needs pursuant to the Court Orders. Following that, residents will be monitored in their outplacement sites until I can assure the Court that the residents remain in appropriate settings and that the staff is knowledgeable in providing care to meet their individualized needs.

Judge Hogan, it is a privilege to serve your Court for the best interests of the long term care residents of the District of Columbia.

Sincerely,



Harriet A. Fields, Ed.D., R.N.
Court Monitor

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MESSAGE: