

MAJOR ITEMS IN DRAFT WELSCH V. GARDEBRING SETTLEMENT AGREEMENT

Since 1980 the Department of Human Services has been operating the regional treatment centers under a consent decree entered into as part of the original Welsch v. Likins law suit. The law suit was brought by Legal Advocacy for Developmental Disabilities who as counsel for plaintiffs, filed a class action law suit against the Department of Human Services.

The parties to the Welsch Consent Decree are considering a Negotiated Settlement thereby avoiding litigation over compliance by DHS and the regional treatment centers with the terms of the 1980 Consent Decree. We believe this is an excellent settlement proposal for both parties in the case.

The Consent Decree is scheduled to expire June 30, 1987. The parties have agreed to file a joint request to the Federal Court to extend the 1980 Consent Decree from June 30, 1987 to September 30, 1987. This action will give the parties additional time to continue their efforts to reach a Negotiated Settlement. Any final Negotiated Settlement will be contingent upon the passage of amendments to the appeals statute (Minnesota Statutes § 256.045) which govern the rights of persons to appeal case management decisions by county agencies. If the legislation is passed during the 1987 Regular Session of the Legislature, the remaining provisions of the Negotiated Settlement will become effective.

The parties have agreed upon language amending Minnesota Statutes § 256.045 and are prepared to jointly support the legislation.

Main Items in the Proposed Negotiated Settlement:

1. The Department agrees to maintain staff ratios in the regional treatment centers at the level contained in the 1980 Consent Decree.
2. The Department will restrict the placement of children in regional treatment centers and requiring a variance of the facility's license when a child is placed in a regional treatment center.
3. The Department will support legislation establishing an external monitoring system designed to investigate and evaluate services provided to persons with mental retardation in regional treatment centers and community programs. The court monitor's office will continue for a period of time under the terms of the Negotiated Settlement with functions similar to an external monitoring office. If legislation establishing this office is passed during the time period the Negotiated Settlement is in effect, the court monitor's office will end.

4. The Department will prepare a number of reports, conduct a number of case reviews and field audits and provide certain specified data and documents to plaintiff's counsel during the time period the Negotiated Settlement is in effect.
5. The Department's Licensing Division will conduct on-site reviews of licensed community programs for which there are outstanding initial notices of noncompliance from the Court Monitor.
6. The Department will issue a report by September 30, 1988 on the relationship of caseload size to case management services.
7. By October 3, 1988, the Department will revise two rules and submit them to the State Register for publication. The rules are:
 - (a) A Licensing Rule for individuals who provide certain services to persons with mental retardation under the state home and community-based waiver and;
 - (b) A revised Residential Services rule governing services to persons with mental retardation (Rule 34).
8. The Department agrees to discharge 100 persons with special needs from regional treatment centers (or 25 percent of the total number of persons discharged during the 1987-1989 biennium, whichever is less).

The jurisdiction of the Federal Court will expire when the Department complies with items 5, 6, 7, and 8.

Please contact Julie Brunner at 296-5292 if you have any questions.

LJJ/jb

SUMMARY OF ADDITIONAL RESOURCES REQUIRED UNDER PROPOSED WELSCH SETTLEMENT

	<u>FY 88</u>	<u>FY 89</u>
1. Licensing Training	\$ 15,000	\$ -
2. Welfare Appeals 3 FTES	108,000	108,000
3. Welfare Appeals Training	3,000	-
4. MR Division 3 FTES	108,000	108,000
5. Case Manager Training for Counties	10,000	10,000
6. Court Monitor Increase	30,000	30,000
7. Attorney Fees	<u>300,000</u>	<u>-</u>
8. TOTALS	\$574,000	\$256,000

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