

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

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|---------------------------------------|---|-----------------------------------|
| HOMEWARD BOUND, INC., et al. |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No. 85-CV-437-TCK-SAJ |
| |) | |
| HISSOM MEMORIAL CENTER, et al. |) | |
| |) | |
| Defendants. |) | |

SECOND AMENDED PERMANENT INJUNCTION

This Court has previously ruled that, although active Court supervision should terminate once there was substantial compliance with the Consent Decree, the intent of the parties in entering into the Consent Decree was to impose a permanent obligation to provide a system of community services and supports for the Plaintiff Class. A permanent injunction is therefore warranted under the specific terms of the Consent Decree.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. The obligation of Defendants under this Permanent Injunction is to maintain the placement of class members in appropriate community settings and to maintain a system of community services and supports as agreed to by the parties. Defendants' system is to provide individualized services appropriate to class members' needs.

2. To minimize the possibility that class members who are currently receiving services and supports in appropriate community residential settings may in the future be admitted to an intermediate care facility for the mentally retarded, Defendants are ordered and directed to continue to administer and submit timely requests for renewal of the

“Homeward Bound” home and community-based services waiver for mentally retarded individuals who meet the intermediate care facility for the mentally retarded level of care, in accordance with the federal law and regulations promulgated by the Department of Health & Human Services, Centers for Medicare and Medicaid Services.

3. Defendants are directed to continue to make available to class members in the community all necessary services as administered and authorized under the rules and procedures for the Department of Human Services, the Oklahoma Health Care Authority, and the Department of Rehabilitation Services. The services will include residential services, medical services, employment services, transportation services, nutritional services, case management services, advocacy services offered through the Office of Client Advocacy, architectural modifications, assistive technology, and professional therapy services. Defendants must also continue to make available to class members both administrative and legal review of agency decisions that affect them.

4. Defendants are directed to continue funding the supported living program for class members, said funding to include the daily room and board payment, medical supplement, property replacement supplement, residential size supplement and transportation supplement. Defendants are directed to diligently pursue adequate funding for the program, and to regularly analyze rates and pursue increases when necessary.

5. If Defendants fail to offer or make available to class members this system of community based services and supports, but otherwise continue to maintain a program of assistance to persons with mental retardation, Plaintiffs may seek enforcement of the

Permanent Injunction before this Court. In any such enforcement proceeding, Plaintiffs must demonstrate that Defendants have failed to make available a system of community based services and supports. In other words, a violation of this Permanent Injunction must be systemic in order to be actionable.

6. The Court finds that the directions and time line set out in the Order for the Transition of Responsibilities and Phase-out of the Combined Office of the Homeward Bound review Panel and the Guardian *Ad Litem* have been followed. This action shall be terminated and the case removed from the active docket of this Court.

ORDERED this 6th day of FEBRUARY, 2007.

A handwritten signature in cursive script that reads "Terence Kern". The signature is written in black ink and is positioned above a horizontal line.

TERENCE KERN
UNITED STATES DISTRICT JUDGE