

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil Action
) No. 92-2062 D/P
 STATE OF TENNESSEE, et al.,)
)
 Defendants, and)
)
 PEOPLE FIRST OF TENNESSEE,)
)
 Intervenor,)
)
 PARENT-GUARDIAN ASSOCIATION OF)
 ARLINGTON DEVELOPMENTAL CENTER,)
)
 Intervenor.)
)
)

**ALL-PARTY CONSENT ORDER TO MOTION
TO APPROVE 2006 SETTLEMENT AGREEMENT**

Before the Court is the joint motion ("Joint Motion") of Plaintiff the United States of America ("United States"), Intervenor/Plaintiffs People First of Tennessee, Inc. ("People First"), and Defendants the State of Tennessee, et al. ("State") (collectively these Parties are referred to as the "Joint Movants") to approve a settlement agreement executed by the Joint Movants on or before May 5, 2006 (the "2006 Settlement Agreement"). [See Joint Motion, Docket Entry No. 2085].

Intervenor Parent Guardian Association of Arlington Developmental Center ("PGA") previously opposed approval of the 2006 Settlement Agreement. After discussions among counsel for the Parties, and

in consideration of certain assurances from the State as set forth and ordered below, PGA now approves of the 2006 Settlement Agreement as evidenced by the signature of its counsel below.

Accordingly, upon this Court's review of the 2006 Settlement Agreement and accompanying memorandum of law it is ORDERED that:

1. The 2006 Settlement Agreement is a fair and reasonable compromise and is approved by the Court.
2. The twelve (12) ICF/MR homes that the State has agreed to develop and operate in accordance with Section V.B. of the 2006 Settlement Agreement shall be located no more than four (4.0) miles (instead of five (5) miles) from the Resource Center established pursuant to Section V.C. of that agreement.
3. In the performance of the 2006 Settlement Agreement, Section V.C., the State shall establish and operate a Resource Center in the Arlington area as set forth in the Closure Plan. The Resource Center shall contain at least the following services, provided that both of the following conditions are met: (1) ADC class members utilize these services sufficiently (in the State's judgment) to warrant their continuation; and, (2) the services are not otherwise readily available to ADC class members residing in the community:
 - a. assistive technology assessment, customization, design, and fitting;

- b. space for the operation of medical speciality clinics determined by the State to be necessary;
 - c. speech language pathology services;
 - d. dental services;
 - e. behavioral analysis services;
 - f. physical nutritional management team services; and
 - g. enteral nutrition team services.
4. The State shall make the services of the Resource Center described in above paragraph numbered three of this Order available to class members within six (6) months of the closure of Arlington Developmental Center. These services shall continue to be provided at the Resource Center until the State determines that either: (1) ADC class members are not utilizing these services sufficiently to warrant their continuation; or, (2) the services are otherwise readily available to ADC class members in the community, at which time the service(s) may be discontinued by the State.
5. The State shall contract with one or more providers of residential physical rehabilitation services to provide rehabilitation services for class members who, in the reasoned professional judgment of such class members' physicians, are in need of such rehabilitation services and those services can be best delivered at a residential physical rehabilitation facility; provided, however, that such class members' stay at a residential rehabilitation

facility be limited in time to no greater than three (3) months unless permitted a longer period of time by Order of this Court.

6. The State shall include in its contract with such residential rehabilitation facilities described in above paragraph numbered five of this Order, requirements that:
 - a. such facilities agree to train staff and abide by the State's system for reporting and investigating incidents of alleged abuse, neglect, or exploitation;
 - b. direct care staff at such facilities who are assigned to care for class members be trained on the general care of individuals with developmental disabilities; and
 - c. the State supervise the care provided to class members who are present in such facilities by visiting such class members within twenty-four (24) hours of such class members' entry into the facility and visiting the class members no less often than once per week thereafter, until discharge from such facility.

IT IS SO ORDERED THIS 15th DAY OF February 2007.

s/Bernice B. Donald
JUDGE BERNICE B. DONALD

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