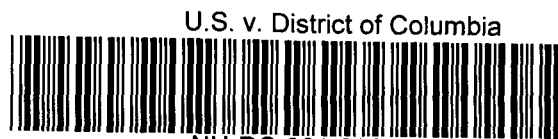


HARRIET A. FIELDS, Ed.D., R.N.

#604

**1722 19th Street, N.W.
Washington, DC 20009
Message: (202) 234-7142**

May 9, 1996



NH-DC-001-026

**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 since my recent letter to the Court of April 25 on the outplacement of the residents of DCV to their new homes.

To date there are 62 residents remaining at DCV. Of this number 35 residents still have no identified outplacement site. Eight residents are tentatively scheduled to be outplaced during the remainder of this week.

Residents with Mental Retardation

Six residents with mental retardation were outplaced this week to D.C. Family Services' group home site on O Street, S.E. Mr. R.W., Mr. T.S., and Mr. F.McE. were outplaced Tuesday and Ms. S.A., Ms. S.P., and Mr. T.M. were outplaced Wednesday. DCV staff accompanied the residents and will remain at the site for the day and evening shifts for the remainder of this week. Georgetown University Child Development Center (GUCDC) staff will be conducting orientation and training for the new direct care staff in the residents' new homes. D.C. Family Services reports that the presence of the DCV staff on-site is very helpful to their new staff.

There has been community concern and some opposition to the presence of this group home. Seemingly some of the opposition is related to the comparatively large number of group homes in

Ward 7 and also apparently to the manner in which the block and community was introduced to presence of the group home. I cannot believe for a moment the opposition is related to the residents who will be living now at this site, for to me they are truly angels who did not asked to be born with their challenges, but bravely live with them which is an inspiration to us all. The ombudsperson, Ms. Sarodel Childs and I visited the group home on Tuesday morning, May 7, before the residents were outplaced. We met with some of the new staff and the construction person for D.C. Family Services, who with his partner has lovingly restored the home to meet the special needs of the residents. We also introduced ourselves and talked for a time with one of the neighbors who was walking by about his and his neighbors concerns. We invited him and his family to visit with the residents at anytime and to continue to apprise us of his and his neighbors concerns.

Ms. Sarodel Childs continues her fine advocacy and review of residents outplacement packets. As a result, she was able to prevent the continuation of an apparent District of Columbia Mental Retardation and Developmental Disabilities Administration Policy of not transferring residents' funds. The residents outplaced this week have the same protections now as the general population of DCV residents outplaced, and that is, their accounts from Independence Federal Savings Bank are transferred to the new payee at the new receiving facility. Based on what has transpired in Court and representations made by the defendants about the residents personal needs allowance (PNA), it was disconcerting to me that it took proactive intervention by the ombudsperson for the reactive steps taken by the District of Columbia to comply with federal law and regulations regarding residents' funds.

D.C. Family Services and Wholistic Habilitative Services have received interim rates for the O Street and Bunker Hill Road group home sites, respectively.

On May 2, I visited Wholistic Habilitative Services group home on Bunker Hill Road, N.E. with Dr. Frieda Butler, the nursing home systems expert consultant to the Court Monitor. This site is the new home for Ms. A.R. and Mr. K.F. The home appeared bright, cheerful, and clean. We visited at dinner time. The food appeared nourishing and well balanced. The residents were receiving attention from the staff on a one to one basis. The neighborhood is certainly conducive to outdoor activities, and the residents had just returned from a walk around the block with the staff.

A concern which will be monitored is that in the home there were limited resources for stimulation and physical activity. In addition, the Habilitation and Transition plans for Ms. A.R. and Mr. K.F. call for enrollment in off-site Day Programs so that they may be meaningfully stimulated beyond maintenance to meet their full potential and individualized needs. Mr. K.F. has been accepted by one, but there is no date for commencing participation. An application for Ms. A.R. is pending. The progress of application and enrollment in off-site Day Programs will be monitored and reported to the Court. Until Ms. A.R. and Mr. K.F. are attending and meaningfully engaged in outside day programs, the defendants are not in compliance with the Court Orders.

GUCCDC has commenced providing inservice and training to staff at both group home sites, Wholistic and D.C. Family Services. This is an admirable model for community placement and it is a tribute to the Court that it exists.

There is one remaining resident with mental retardation at DCV, Mr. P.L. There is no site identified for him. Mr. P.L. is wheelchair bound and because of his physical needs his chair is wider, 27 inches, and longer, 67 inches, than most group homes are structurally able to accommodate. Until the dimensions of his wheelchair were actually known, Mr. P.L. was scheduled for outplacement to D.C. Family Services O Street site. According to Mr. Butler today, there is no vacancy "within the system" for Mr. P.L. This is of very serious concern to me, for Mr. P.L. is truly where he should not be to meet his individualized needs in continual violation of the Court Orders. Immediate and proactive planning is needed by the District to find the most appropriate site for Mr. P.L. to meet his individualized needs pursuant to the Court Orders. The planning for this will be closely monitored and reported to the Court on a regular basis.

Residents Moving to Independent Living

Mr. C.W. was discharged to his new home this week. Ms. Peggy Graves has been instrumental in coordinating the planning for the outplacement of the three residents who will be moving to independent living, including Mr. C.W. Within the best of her abilities, Ms. Graves is being as thorough as possible to meet the residents individualized needs. A complete list of services and programs established for the residents will be profiled in a future letter to the Court. Mr. C.W.'s food stamps are scheduled to be ready on May 17. In the interim, he has supplies of food goods from DCV and a local Church. Mr. C.W. should receive his first SSI check on May 22. He was discharged with \$70. My concern about the need for cash as profiled in my April 25th letter to the Court is still valid.

Ms. M.M. is scheduled to be discharged next week. There is still no site identified for the third resident, Mr. M.W.

I have an overall concern with the lack of consistent proactive planning. Since my last submission to the Court, another example became apparent, and once raised by the Court Monitor, reactive steps have been taken by DCV for the best interests of the residents.

For weeks at the weekly outplacement meetings, Mr. Silas Butler reported that two of the three residents scheduled to be outplaced to independent living would be enrolled in rehabilitation medicine programs because these two residents, Mr. C.W. and Mr. M.W., have amputations of both their legs. At a planning meeting for Mr. C.W. last Wednesday afternoon, May 1, no mention was made of follow-up medical care. I inquired about this and the medical director at DCV responded that Mr. C.W. could walk into any facility of his choice, go to the admitting area and enroll himself.

I do not believe that residents who have been institutionalized for years should be left to their own

devices to negotiate the maze of a medical center to establish their own medical follow-up. This is a daunting task even for the able-bodied among us and often too intimidating to even begin to initiate, let alone to know how to follow-through.

I am very distressed, that in retrospect the representations made for weeks at the weekly outplacement meetings were not being carried out by the medical director. Nevertheless, I am happy for Mr. C.W.'s sake, that as a result of the concern raised at the May 1 meeting, Mr. C.W. is enrolled (by the medical director) at the rehabilitation medicine program of Washington Hospital Center, the facility of his choice, and his first appointment is May 17.

I believe expecting these residents to find and otherwise walk into and enroll themselves for medical care represents an insensitivity to the demands of the new independent lifestyle of the DCV residents institutionalized for years. I was stunned by this expectation and very concerned about the potential negative consequences on the new lifestyle for these DCV residents. I am communicating my concern to the Court, so that this lapse in careful attention and planning for the residents does not happen again, and so that the outplacement of the remaining DCV residents continues with dignity and respect for their individualized needs.

Continued Concerns Regarding Lack of Proactive Initiatives

The concern raised in my April 25th letter to the Court regarding vocational rehabilitation to meet the residents individualized needs is still valid. It applies not only to the three residents scheduled for independent living, but also to the younger than average-age nursing home residents, who are indeed able-minded although not able-bodied. In order to meet their individualized needs upon outplacement in accordance with the Court Orders, vocational rehabilitation services must be made available to them. I am concerned about the planning for these services and will closely monitor the situation and report to the Court.

Yesterday, another instance of a lack of proactive initiative became known to me, and greatly concerns me, regarding a resident in the general population awaiting outplacement. At Wednesday's weekly outplacement meeting, Mr. R.W. was profiled as scheduled for outplacement, yet within the last few weeks he has refused to leave, refused to eat, stopped breathing on a number of occasions, has been admitted a number of times to local hospitals, and has refused treatment. I have seen situations like this before when human beings will themselves to die. Mr. R.W. has told staff he will not leave DCV. The trauma of transfer can render an individual with a feeling that there is no recourse left but to take control of one's life in manner similar to this.

To the nursing department's great credit, a nurse aide has been detailed to Mr. R.W.'s room around the clock to monitor his breathing. However, the specialty consult team which provides counseling was not contacted by the medical department, and not contacted until the presence of the Court requested that Ms. Sue Brown to do so immediately. Ms. Brown followed up and informed me yesterday afternoon that Geriatric Psychological Systems (G.P.S.) is now scheduled

to see Mr. R.W. today.

I do have a concern that there will be a few hard to place residents who will have no identified sites by the latest projected closing date of DCV in three weeks. For the best interests of the residents in order to be placed in the most appropriate sites to meet their individual needs pursuant to the Court Orders, residents should not be moved until the most appropriate (not interim) sites are found and provisions for their individualized needs are established with respect and dignity.

In the most recent '30 Day Compliance Report' received by me, which is the March report, there are a number of hospitalizations listed for dehydration related reasons which had been such a great source of concern several months.

Once again it has come to my attention that the defendants were advised not to meet with nor speak to the Court Monitor. Friday, May 3, at the District's initiative, a weekly scheduled meeting with Mr. Vernon Hawkins, Dr. Harvey Sloane, Ms. Gladys Fountain, and the Court Monitor was to take place at 4pm in Mr. Hawkins' office. At 3:25pm on Friday, May 3, I received a phone call canceling this meeting with no rescheduling date. I subsequently learned, that Mr. Goode in the general counsel's office of the Department of Human Services for the District of Columbia, advised the defendants to take this action. I believe this advice was not constructive and a disservice to the defendants. It is the role of the Court Monitor to advise the defendants on how to comply with the Court Orders for the best interests of the residents. Therefore, the only parties to suffer by this counsel are the defendants and ultimately the residents.

Outplacement visits

On May 2, I met with Sr. Carol Keehan, President of Providence Hospital, along with Dr. Frieda Butler. I shared with Sr. Carol the Court Orders, highlighting those that relate to the outplacement of the residents to the most appropriate settings to meet their individualized needs. Providence Hospital is currently managing two nursing homes, the new one built on its premises and the facility in Hyattsville, MD, Carroll Manor. The Hyattsville facility is scheduled to be sold and to be operated under new management. However, Sr. Carol assured me that soon a meeting will be set-up with the new management, the Court Monitor and Sr. Carol to review the Court Orders with the new management. I will follow-up on this and report in a future letter to the Court.

Vendors

As of this writing, National Patient Care Systems has not received the Court ordered (at the defendants request) payment past due of \$47,761.00, despite the defendants unseemly request of the Court to issue an order to pay this vendor. The Court graciously issued the Order for the best interests of the residents. This vendor supplies specialty beds for residents with decubitus ulcers.

Attached to this letter to the Court is a fax sent to me by National Patient Care Systems identifying invoice numbers and amount due.

In a telephone conversation on Wednesday, May 8, with Ms. Janette Michael, consent decree coordinator for the Department of Human Services of the District of Columbia, Ms. Michael indicated that the "check has been cut today... and mailed." Ms. Michael indicated that "as soon as she received the Court Order" which she said she just received, she was able to "cut the check". Now she is awaiting a Court Order so she may "cut" another check to National Patient Care Systems for \$6300. The defendants request was dated April 4, the Court Order for payment to this vendor was issued April 16. I received my copy April 18.

My concern is that the defendants are venturing onto a path of disrespect and abuse of the federal judicial system; that requests for Court Orders for payments of vendors will become a pattern until DCV is closed; and that the Court Orders, as in this instance, will be cavalierly handled and still not honored in a timely fashion.

My concern is only heightened by the fact that the Corporation Counsel has asked the Court to issue an order for payment to Assur Qual which was never a vendor at DCV providing services to the residents. Rather Assur Qual was the defendants expert in its attempt to refute the need for the Court Order to improve care and services for the residents at DCV.

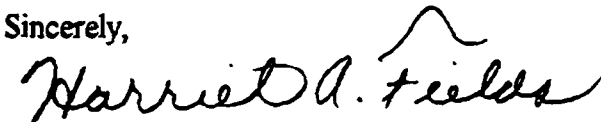
The vendor providing needed and expert direct care to residents, TMS (Therapeutic Management Systems), the physical therapists, received partial payment of the January invoice in the amount of \$2849. The physical therapists are owed \$2296 remaining on the January invoice and \$6885 for the February invoice submitted March 11, for a total to date past due of \$9181.

Attached to this letter to the Court is a copy of an "Account Statement" from National Nurses listing invoices for which partial payments were made and for which remaining payments are still due according to the vendor.

Given the recent article in The Washington Post regarding the removal of contracting authority from the Department of Human Services, it would be helpful to know to whom questions concerning contracts and vendor payments for services for the residents should be directed.

Once again, Judge Hogan, it is a privilege to serve your Court and to work with all concerned parties 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

Attachment (1) National Patient Care Systems vendor list
(2) National Nurses, Inc. vendor list

cc: Mr. Richard J. Farano
Mr. David Deutsch
Civil Rights Division
U.S. Department of Justice
P.O. Box 66400
Washington, DC 20035

Mr. William Isaacson
Kaye, Scholer
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Washington, DC 20001

Ms. Barbara Mann
Office of the Corporation Counsel
441 4th Street, NW, Suite 680
Washington, DC 20005



23 EMPIRE BOULEVARD
SOUTH HACKENSACK, NJ 07606-1805
(201) 641-7400/(800) 955-4555
FAX: (201) 641-8541

FAX # 202-332-2949

FAX TRANSMISSION COVER PAGE

DATE: 5/7/96 RE: DC VILLAGE

TO: DR. Harriet Fields Court Monitor

LOCATION: DC - COURT

FROM: Judy Oglesby EXTENSION: 356

TOTAL NUMBER OF PAGES (INCLUDING COVER) 2

SPECIAL INSTRUCTIONS:

Dr. Fields,

In regard to DC VILLAGE
we have received no payments to date
on court ordered payment of 47,761.00.
The following statement reflects open issues,
due NPCS Thanks, Judy

05/07/96

DCVIL

DC VILLAGE HOSPITAL
2 DC VILLAGE LANE S.W.

WASHINGTON, DC

20032

1

93475	03/31/95	I A	GEORGE	9025.00	8110.00
106155	09/30/95	I A	BRYD	8850.00	1276.00
108473	10/31/95	I A	BRYD	8925.00	8925.00
110682	11/30/95	I A	BRYD	8925.00	8925.00
112937	12/31/95	I A	BRYD	7950.00	7950.00
115251	01/31/96	I A	BRYD	6925.00	6925.00
116559	02/29/96	I J	HELEN	50.00	50.00
117357	02/29/96	I A	BRYD	5600.00	5600.00
119864	03/31/96	I B	MARY	6300.00	6300.00

0.00 *

5,110.00 +

1,276.00 +

0,925.00 +

8,925.00 +

7,950.00 +

6,925.00 +

2,111.00 +

50.00 +

5,600.00 +

47,761.00 +

55,781.00 +

0.00 *

0.00 *

CURRENT	1 TO 30	31 TO 60	61 TO 90	OVER 90
0.00	6300.00	5650.00	6925.00	54061.00
				35186.00

**NATIONAL NURSES SERVICE
1807 LIBBIE AVENUE
SUITE #206
RICHMOND, VA 23226
(800) 846-6755**

ACCOUNT STATEMENT

ACCOUNT: D.C. VILLAGE
ATTN: DELORES RICHARDSON
DATE OF STATEMENT: MAY 8, 1996

D.C. VILLAGE		
INVOICE# & DATE:		AMOUNT DUE:
-----		-----
-----		-----
-----		-----
-----		-----
-----		-----
#637	02/07/96	29.55
#707	02/15/96	974.78
#712	02/21/96	7.94
#234831	03/01/96	97.41
#234903	03/08/96	452.70
#235123	03/20/96	7.94
SUBTOTAL.....	\$	1,570.32

D.C. VILLAGE 2		
INVOICE# & DATE:		AMOUNT DUE:
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-----		-----
-----		-----
-----		-----
#238	12/21/95	2,544.82
#284	12/28/95	311.13
#363	01/04/96	144.79
#440	01/11/96	71.55
-----		-----
#638	02/07/96	7.35
-----		-----
#713	02/21/96	1,188.89
#234832	03/01/96	2,590.07
#235054	03/15/96	1,173.11
#234904	03/08/96	7,799.00
#235124	03/20/96	66.19
SUBTOTAL.....	\$	15,896.90

TOTAL AMOUNT NOW PAST DUE.....\$ 17,467.22

HARRIET A. FIELDS, Ed.D., R.N.

#604

1722 19th Street, N.W.

Washington, DC 20009

Message: (202) 234-7142

TO: MR. RICHARD FARANO ; MR DAVID DEUTSCH

COMPANY: CIVIL RIGHTS DIVISION

FAX: 514-6273 PHONE: 307-3116

FROM: Dr. Harriet A. Fields

DATE: MAY 9, 1996

NO. OF PAGES (INCLUDING COVER): 11

MESSAGE: