

Connecticut Department of Social Services

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DSS information contacts:

Claudette Beaulieu, (860) 424-5010 (w)
(860) 657-2952 (h)

Email, pgr.dss@po.state.ct.us

State Legal Services Announces Settlement of DeSario Lawsuit

Department of Social Services Commissioner Patricia Wilson-Coker today announced the settlement of litigation in DeSario v. Thomas, a federal court case concerning Medicaid coverage of durable medical equipment (DME), which includes such items as hospital beds and wheelchairs.

The settlement makes permanent the Department's new, more flexible policies regarding approval and coverage of DME and settles the long-running litigation brought by the New Haven Legal Assistance Association and Greater Hartford Legal Assistance, on behalf of Concetta DeSario and other similarly situated disabled plaintiffs. The plaintiffs in the lawsuit had challenged the Department's denial of Medicaid coverage for any item of DME that was not on the Department's exclusive list of DME.

"As a result of this settlement, we will cover durable medical equipment in a manner that allows for more individual consideration of specific needs," Wilson-Coker said, "while ensuring the most cost-effective service is rendered."

Sheldon Toubman, an attorney with New Haven Legal Assistance Association, praised the Department, saying "medically necessary durable medical equipment is fundamental to maximizing the capacity of persons with physical disabilities for independence and self-care, one of the goals of the Medicaid program." Susan Garten, an attorney with Greater Hartford Legal Assistance, said. "We are pleased with the settlement and are glad that the Department has agreed to be more flexible in addressing the essential needs of Medicaid recipients with physical disabilities."

Under the agreement, the state will:

1. Have a process for annually updating its list of DME services;
2. Allow a recipient to obtain an item not on the list if he or she can demonstrate that there is no less-costly Medicaid service or item that can meet his or her needs as effectively;
3. Adopt regulations clarifying that a request for an item not on the DME list will not be denied simply because it is not on the list

Because of the settlement, the Department has withdrawn its appeal to the Second Circuit Court of Appeals.

"This settlement is very much in keeping with the direction I plan to take during my administration," Commissioner Wilson-Coker said. "I am pleased to be able to make permanent a system that is more responsive to individual clients' needs."

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