

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STANLEY LIGAS, by his sister and next friend, Gina)
Foster; DAVID CICARELLI, by his guardians James and)
Julianne Cicarelli; ISAIAH FAIR, by his guardian,)
Lutricia Fair; JAMIE McELROY, by his guardian,)
Patricia McElroy; and JENNIFER WILSON, by her)
guardians, Nancy and Richard Wilson, on behalf of)
themselves and all others similarly situated,)

Plaintiffs,)

vs.)

JULIE HAMOS, in her official capacity as Director of)
the Illinois Department of Healthcare and Family)
Services, and MICHELLE R.B. SADDLER, in her)
official capacity as Secretary of the Illinois Department)
of Human Services,)

Defendants.)

No. 05-4331

Chief Judge Holderman

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY

*A SETTLEMENT HAS BEEN PROPOSED THAT MAY AFFECT THE RIGHTS OF
INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES WHO HAVE REQUESTED
COMMUNITY-BASED SERVICES OR PLACEMENT IN A COMMUNITY-BASED SETTING.*

BASIC INFORMATION

1. WHY DID YOU GET THIS NOTICE?

You were sent this Notice to inform you about the proposed settlement of the class action lawsuit, as set forth in the Consent Decree (“Consent Decree”) proposed in this case, which may affect the rights of individuals with developmental disabilities who have requested community-based services or placement in a community-based setting. This Notice was sent to you and other people (and/or their parents, guardians or legal representatives) in Illinois who have been identified as being eighteen (18) years of age or older with a developmental disability and who have previously requested community services or residential placement, as well as individuals and entities who care for and work with them.

This Notice explains the lawsuit and the key terms of the Consent Decree, tells you how to obtain more information, explains how to determine whether an individual with a developmental disability is a Class Member in the lawsuit, and explains how Class Members (and/or their legal representatives) can tell the Court whether they disagree with the Consent Decree or some part of it.

The Consent Decree described in this Notice is subject to Court approval, and thus has not yet been made final. The Court has scheduled a hearing to determine the fairness, adequacy and reasonableness of the Consent Decree and to consider any objections Class Members may have to the Decree.

The Consent Decree may affect the rights of individuals with developmental disabilities who have affirmatively requested community-based services or placement in a community-based setting and: (1) reside in a private Intermediate Care Facility for individuals with Developmental Disabilities (“ICF-DD”) with nine or more residents; or (2) live in a family home and are in need of community-based services or placement in a community-based setting. As defined in the Decree, an ICF-DD is a residential facility where nine or more adults with developmental disabilities live together. If you currently live in an ICF-DD and want to stay there, or you want to live in an ICF-DD, then you are not a Class Member and you do not need to do anything.

2. WHAT IS THIS LAWSUIT ABOUT?

The Court in charge of the lawsuit is the United States District Court for the Northern District of Illinois, and the case is known as *Ligas v. Hamos*, Case No. 05-4331. The people who sued are called the Plaintiffs, and the people they sued are called the Defendants.

Plaintiffs filed this lawsuit on July 28, 2005, on behalf of themselves and a class of similarly situated Illinois residents, seeking to prevent what they allege is their unnecessary segregation in ICFs-DD by Defendants. The named Plaintiffs are five adults with developmental disabilities who have requested and been denied placements in community-based settings. The named Defendants are Julie Hamos, who is the Director of the Illinois Department of Healthcare and Family Services, and Michelle R.B. Saddler, who is the Secretary of the Illinois Department of Human Services. The Defendants are responsible for administering the State of Illinois’ programs for people with developmental disabilities. The lawsuit seeks to compel the State of Illinois (through the Defendants) to comply with federal law and rulings of the United States Supreme Court, and to bring Illinois in line with prevailing national practices, by offering individuals with developmental disabilities the opportunity to make meaningful, informed choices about whether to live in community-based settings, in addition to the ICF-DD choice.

3. WHAT IS A CONSENT DECREE AND WHY IS IT BEING PROPOSED HERE?

A Consent Decree is a final order of the court in a case that is agreed to by all Plaintiffs and Defendants. The Court in this case did not decide in favor of either Plaintiffs or Defendants. There was not a trial. Instead, all of the Plaintiffs and Defendants agreed to settle the case according to certain terms that are stated in the Consent Decree. In addition to all of the Plaintiffs and Defendants, the Consent Decree was entered into on behalf of certain Illinois residents with developmental disabilities who have intervened in this case to ensure that the State of Illinois continues to meet its obligations to provide ICF-DD services. These individuals

are referred to as Intervenors. The Plaintiffs, Defendants and Intervenors have jointly asked the Court to enter the Consent Decree as an official order of the Court. That way, the cost of a trial is avoided, and the people affected will get relief. The Plaintiffs who filed the lawsuit and their attorneys think the Consent Decree is best for the people who are Class Members.

4. WHO IS A CLASS MEMBER?

The Court has certified the lawsuit as a class action and decided that everyone who fits this description is a Class Member: Adults in Illinois who have a Developmental Disability (as defined below) and who qualify for Medicaid Waiver services and who either: (i) reside in private ICFs-DD with nine or more residents or (ii) live in a family home and are in need of community-based services or placement in a community-based setting; and for whom Defendants have a current record reflecting that the individual has affirmatively requested to receive Community-Based Services or placement in a Community-Based Setting (both defined below). If you currently live in an ICF-DD and want to stay there, or you want to live in an ICF-DD, then you are not a Class Member and you do not need to do anything.

5. WHAT IS CONSIDERED A “DEVELOPMENTAL DISABILITY”?

In the Consent Decree, “Developmental Disability” means: a disability that is attributable to a diagnosis of mental retardation (mild, moderate, severe, profound), or a related condition. A related condition is attributable to: cerebral palsy or epilepsy, or any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation, and requires treatment or services similar to those required for persons with mental retardation. In addition, this condition is manifested before the age of 22; is likely to continue indefinitely; and results in substantial functional limitations in three or more of the following areas of major life activity: self-care; understanding and use of language; learning; mobility; self-direction; capacity for independent living.

6. WHAT IF YOU WANT TO RECEIVE COMMUNITY-BASED SERVICES OR PLACEMENT IN A COMMUNITY-BASED SETTING BUT HAVE NOT MADE SUCH A REQUEST?

If you otherwise meet the definition of a Class Member, but have not made a request to receive Community-Based Services or placement in a Community-Based Setting, or are not sure if you made such a request, you may request those services at any time. For your convenience, attached as Exhibit 1 to this Notice is a form letter that you may send to Brent D. Stratton at the Office of the Illinois Attorney General indicating your request for such services. If you sent Mr. Stratton a request, like the one attached as Exhibit 1, you do not need to send him another request. If you choose not to request such services now, you will not be precluded from requesting and receiving such services at a later time. Additionally, if you currently reside in an ICF-DD, requesting such services will not require you to give up any rights to remain in an ICF-DD.

7. WHAT IF YOU DON'T WANT TO RECEIVE COMMUNITY-BASED SERVICES OR PLACEMENT IN A COMMUNITY-BASED SETTING?

If you have not requested to receive Community-Based Services or placement in a Community-Based Setting, and do not wish to receive such services, you need not do anything because you are not a Class Member. If you currently live in an ICF-DD and want to stay there, or if you want to live in an ICF-DD, then you are not a Class Member and you do not need to do anything. If you previously requested to receive Community-Based Services or placement in a Community-Based Setting, or are not sure if you made such a request, but you no longer wish to receive such services, you may let Defendants know of your choice now or at any time. For your convenience, attached as Exhibit 2 to this Notice is a form letter that you may, at your option, send to Brent D. Stratton at the Office of the Illinois Attorney General indicating that you no longer wish to receive such services, at which point you will no longer be a Class Member. Whether you choose to use the letter or not, you may always later change your choice should you decide later that you do not wish to receive such services. Also, if you objected (either personally, or through your legal guardian) to the Proposed Consent Decree that was the subject of the July 1, 2009 Fairness Hearing in this Litigation because you do not wish to receive Community-Based Services or placement in a Community-Based Setting, you shall be considered to have retracted any request for services that you have made in the past and you do not need to send a letter to Mr. Stratton.

THE SETTLEMENT

8. WHAT DOES THE CONSENT DECREE IN THIS CASE PROVIDE?

The Consent Decree in this case that the Plaintiffs and Defendants have asked the Court to enter, if approved by the Court, would provide certain rights and benefits (as more fully described in the Consent Decree) to eligible Class Members as defined above, as well as provide certain protections to Intervenors. If the Consent Decree is not approved, it will be withdrawn and the lawsuit will continue. A copy of the entire Consent Decree is available on the website of the Illinois Department of Human Services, Division of Developmental Disabilities: www.dhs.state.il.us/page.aspx, and on the website of Equip for Equality: www.equipforequality.org.

All Plaintiffs and Defendants in this case believe that the Consent Decree is fair, reasonable and adequately affords relief to all eligible Class Members. The Consent Decree establishes procedures to allow individuals with developmental disabilities to choose Community-Based Services or placements in Community-Based Settings, while still maintaining the choice of private ICFs-DD; and requires Defendants to make those services or placements available to those eligible individuals who have requested them.

The following is a brief summary of key terms in the Consent Decree.

- Development of Community Capacity. The Consent Decree requires Defendants to ensure the availability of services, supports and other resources to meet their obligations under the Decree and in particular to provide community residential settings and community-based services.

- Benefits for Class Members Currently Residing in ICFs-DD. The Consent Decree ensures that for individuals currently residing in ICFs-DD who indicate that they desire to move to a Community-Based Setting and otherwise qualify for Medicaid Waiver services, Defendants will develop a transition service plan specific to each person. The transition service plan will describe the services required, where and how such services will be developed and obtained, and a timetable for promptly completing that transition. The transition service plan will be developed by a qualified professional in conjunction with the Class Member and, where one has been appointed, the Class Member's legal guardian, and, where appropriate, the Class Member's family members, friends and support staff who are familiar with the Class Member.

Within six years, all persons residing in ICFs-DD who request placement in Community-Based Settings will transition to such settings. The Consent Decree sets forth interim benchmarks as well, with not less than one-third of such persons transitioning within two and a half years, and not less than two-thirds transitioning within four and a half years of approval of the Consent Decree.

The Consent Decree does not require or force anyone to receive a transition service plan or to move out of an ICF-DD unless he or she affirmatively indicates that he or she wants placement in a Community-Based Setting.

- Benefits for Eligible Class Members Who Reside In A Family Home. Eligible individuals with developmental disabilities who reside in a family home (as defined in the Consent Decree) and have requested either Community-Based Services or placement in a Community-Based Setting also benefit from the Consent Decree. Under the Consent Decree, Defendants must maintain a Statewide database in which all individuals with developmental disabilities who reside in a family home and have been identified as requesting either Community-Based Services or placement in a Community-Based Setting are enrolled. These individuals will be placed on a waiting list for community services with selection prioritized by the individual's urgency of need for such services, the length of time that has passed since the individual enrolled, geographical considerations and other factors. As each individual is selected to receive community services, Defendants will develop a transition service plan specific to each person. The service plan will describe the services required, where and how such services will be developed and obtained, and a timetable for promptly completing that transition. The transition service plan will be developed by a qualified professional in conjunction with the Class Member and, where one has been appointed, the Class Member's legal guardian, and, where appropriate, the Class Member's family members, friends and support staff who are familiar with the Class Member.

The Consent Decree provides that individuals in Crisis who affirmatively request Community-Based Services and/or placement in a Community-Based Setting will receive such necessary and appropriate services or placement expeditiously. There is no limit to, or cap upon, the number of Crisis situations that Defendants are obligated to handle.

Within two years, Defendants shall provide Community-Based Services and/or placement in a Community-Based Setting, in accordance with their transition plan, to at least 1,000 individuals on the waiting list who are not in Crisis situations, with these individuals served in order of priority. In each of the third, fourth, fifth, and sixth years following approval of the Consent Decree, Defendants shall provide such services to at least 500 additional individuals on the waiting list, again in order of priority.

Before any individual is placed in a Community-Based Setting, Defendants will ensure that he or she is provided with objective information regarding residential options, and that he or she continues to request placement in a Community-Based Setting.

- Implementation Plan. The Consent Decree requires Defendants to develop an Implementation Plan to establish specific tasks, timetables, and protocols to ensure that Defendants fulfill the requirements of each provision of the Consent Decree.
- Monitoring and Compliance. Under the Consent Decree, the Court will appoint an independent and impartial Monitor who is knowledgeable concerning the management and oversight of programs serving individuals with developmental disabilities. The Monitor will be responsible for assisting the Court in evaluating Defendants' compliance or non-compliance with the Consent Decree.
- Attorneys' Fees and Costs. Under the Consent Decree, Defendants will pay \$1,740,000.00 to Class Counsel and \$500,000.00 to Intervenors' Counsel in full settlement of attorneys' fees incurred in connection with the lawsuit, all of which will be donated to charitable 501(c)(3) organizations that serve individuals with developmental disabilities. Additionally, Defendants will pay all costs and expenses incurred by Class Counsel through and including the approval of the Consent Decree and any appeal thereof. Class Members do not have to pay anything to Class Counsel.
- Termination. Under the Consent Decree, the Court shall retain exclusive jurisdiction to fully oversee, supervise, modify and enforce the terms of the Consent Decree for at least nine years following the approval of the Consent Decree.

9. WHAT IS CONSIDERED A "COMMUNITY-BASED SETTING" AND WHAT ARE CONSIDERED "COMMUNITY-BASED SERVICES"?

In the Consent Decree, "Community-Based Setting" means a residential setting with a maximum of eight (8) beds, but does not include an ICF-DD, that is the most integrated residential setting appropriate for an individual with developmental disabilities, where the setting is designed to promote independence in daily living, community integration, and economic self-sufficiency and enables the individual to interact with non-disabled persons to the fullest extent possible.

In the Consent Decree, "Community-Based Services" means those services (other than a placement in a Community-Based Setting) available under the Illinois Home and Community-Based Services Waiver for Adults with Developmental Disabilities.

10. WILL CLASS MEMBERS RECEIVE MONEY FROM THE CONSENT DECREE?

No. The lawsuit did not seek money damages on behalf of any Class Members, and there is no money awarded to any Class Members as part of the Consent Decree.

CLASS MEMBERS' RIGHTS

Class Members (and/or their parents, guardians or legal representatives) can tell the Court whether they disagree with the Consent Decree or some part of it.

11. HOW DO YOU TELL THE COURT THAT YOU OBJECT TO THE CONSENT DECREE?

All Class Members have the right to object to the Consent Decree and to give reasons why they believe the Court should not approve it. The Court will consider those views. Any objection must include the name and number of the case (*Ligas v. Hamos*, Case No. 05-4331), as well as a statement of the reasons (in no more than 15 pages) why the Court should not approve the Consent Decree. Be sure to include your name, address, telephone number, and your signature. Please note that it is not sufficient to simply state that you object. Objections must state reasons why the Decree should not be approved.

All objections must be sent by U.S. Mail and postmarked no later than May 13, 2011, to John Grossbart, SNR Denton US LLP, 233 S. Wacker Dr., Suite 7800, Chicago, Illinois 60606. Attorney John Grossbart, the lead counsel, will inform the Court and other counsel for the Plaintiffs and Defendants of the objections that he receives and that Class Members want presented to the Court.

THE COURT'S FAIRNESS HEARING

The Court will hold a Fairness Hearing to decide whether to approve the Consent Decree.

12. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE CONSENT DECREE?

The Fairness Hearing will be held before the Honorable James F. Holderman, United States District Judge, in the Dirksen Federal Building, 219 S. Dearborn Street, Room 2541, Chicago, Illinois 60604 on June 10, 2011 at 9:30 a.m. At this hearing, the Court will consider whether the Consent Decree is fair, reasonable and adequate to the Class. The Court will consider any objections made according to the procedures described above.

13. DO YOU HAVE TO COME TO THE HEARING?

All Class Members are entitled to attend the Fairness Hearing if they choose to do so, but no one is required to attend the Fairness Hearing. Plaintiffs' and Defendants' lawyers will answer questions Chief Judge Holderman may have. If you mail an objection in accordance with

the procedures described in Section 11, above, of this Notice, you do not have to come to Court to talk about it. As long as you mailed your written objection in accordance with the procedures described in Section 11, above, of this Notice, the Court will consider it.

14. WHO CAN SPEAK AT THE HEARING?

You may ask the Court for permission to speak at the Fairness Hearing. The Judge will decide whether you are permitted to do so. To request permission, you must send a “Notice of Intention to Appear in *Ligas v. Hamos*, Case No. 05-4331” to the Court and the parties. Be sure to include your name, address, telephone number, and your signature.

You must send your Notice of Intention to Appear to the Clerk of the Court, Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604. The Notice must be received by the Clerk of the Court no later than May 13, 2011. (If you file an objection and also want to ask for permission to speak at the Fairness Hearing, you can include the Notice of Intention to Appear in the same document as the objection.)

Your Notice of Intention to Appear must be mailed to the parties by sending a copy of the objection, postmarked no later than May 13, 2011, to John Grossbart, SNR Denton US LLP, 233 S. Wacker Dr., Suite 7800, Chicago, Illinois 60606.

LAWYERS REPRESENTING THE CLASS

15. WHO ARE THE CLASS MEMBERS' LAWYERS IN THE CASE?

The Court ordered that the following attorneys represent the Class Members. These lawyers are called "Class Counsel."

John Grossbart	Barry C. Taylor
Wendy N. Enerson	Kendra K. Hartman
Corey M. Shapiro	Laura J. Miller
SNR Denton US LLP	John W. Whitcomb
233 S. Wacker Drive, Suite 7800	Barry G. Lowy
Chicago, Illinois 60606	Equip for Equality
Telephone: 312-876-8000	20 North Michigan Avenue, Suite 300
	Chicago, Illinois 60602
	Telephone: 312-341-0022
Ed Mullen	Benjamin S. Wolf
Access Living of Metropolitan Chicago	Roger Baldwin Foundation of ACLU, Inc.
115 West Chicago Avenue	180 North Michigan Avenue, Suite 2300
Chicago, IL 60610	Chicago, Illinois 60601
Telephone: 312-640-2100	Telephone: 312-201-9740

Class Members will not be charged for these lawyers' fees or expenses.

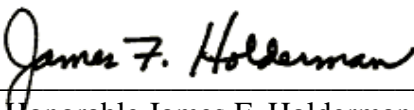
GETTING MORE INFORMATION

16. HOW DO YOU GET MORE INFORMATION ABOUT THE CONSENT DECREE?

A copy of the entire Consent Decree is available on the website of the Illinois Department of Human Services, Division of Developmental Disabilities: www.dhs.state.il.us/page.aspx, and on the website of Equip for Equality: www.equipforequality.org.

If you have any questions for Plaintiffs' lawyers or want to request that a copy of the Consent Decree be mailed to you, you may write to Barry Taylor at Equip for Equality, 20 North Michigan Avenue, Suite 300, Chicago, Illinois 60602, call Barry Taylor at 312-895-7317, or email Barry Taylor at barryt@equipforequality.org.

DATED: January 13, 2011



 The Honorable James F. Holderman
 United States District Court Judge

**REQUEST FOR COMMUNITY-BASED SERVICES OR PLACEMENT IN A
COMMUNITY-BASED SETTING**

To: Illinois Department of Human Services
Division of Developmental Disabilities
c/o Mr. Brent D. Stratton
Office of Illinois Attorney General
100 W. Randolph St., 12th Floor
Chicago, IL 60601

This request is on behalf of _____, an adult with a developmental disability, who currently lives:

_____ at home OR at _____
(an Intermediate Care Facility for the Developmentally Disabled).

This is a request for Community-Based Services or placement in a Community-Based Setting under the Illinois Home and Community-Based Services Waiver for Adults with Developmental Disabilities.

I understand that, by completing this form, I am **NOT** getting myself/my family member on a waiting list for services or placement.

I understand that, in order to be placed on a waiting list, I need to enroll myself/my family member on PUNS.

I understand that I can get more information about PUNS by calling 1-888-DD-PLANS (or 1-866-376-8446 (TTY)) or by going to <http://www.dd.illinois.gov/SignUp.cfm>.

I understand that this request is **NOT** a request for a determination of eligibility for services or placement. Eligibility determinations are completed upon selection from PUNS.

Signature: _____

Printed Name: _____

Address: _____

Phone: _____

Date: _____

Relationship to person requesting services: Self Guardian
 Family member Other

CONFIRMATION OF NON-REQUEST

To: Illinois Department of Human Services
Division of Developmental Disabilities
c/o Mr. Brent D. Stratton
Office of Illinois Attorney General
100 W. Randolph St., 12th Floor
Chicago, IL 60601

This letter is written by or on behalf of the person listed below, who currently resides at (circle A or B):

- A: an Intermediate Care Facility for the Developmentally Disabled;
OR
- B. his/her place of residence.

The person listed below wishes to confirm that he/she does not request at this time any Community-Based Services or placement in a Community-Based Setting.

Name: _____

Address: _____

Legal Guardian (if any): _____

Sincerely,

Date: _____

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