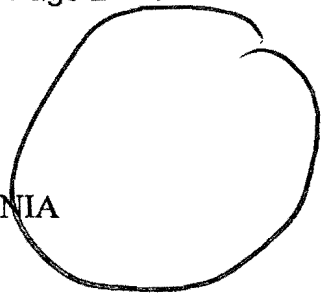


JHS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA



LYKEH MUMFORD, by and through his next friend,
Katherina Mach; JOSEPH YALE, by and through
his next friend, Pamela Zotynia; and KAREN LYN
BLAKELY, by and through her mother and next
friend, Carol Blakely,

Plaintiffs,

v.

Civil Action No. 11-3312

DEPARTMENT OF PUBLIC WELFARE OF THE
COMMONWEALTH OF PENNSYLVANIA; and
GARY ALEXANDER, in his official capacity as
Secretary of Public Welfare of the Commonwealth of
Pennsylvania,

Defendants.

SETTLEMENT AGREEMENT

I. Introduction

WHEREAS Plaintiffs filed this lawsuit that alleged that Defendants violated the Americans with Disabilities Act, Rehabilitation Act, and Title XIX of the Social Security Act by failing to provide Plaintiffs with appropriate residential habilitation services that resulted in their institutionalization in psychiatric hospitals;

WHEREAS Plaintiffs filed a Motion for a Temporary Restraining Order and Preliminary Injunction in June 2011 to require Defendants to provide them with

appropriate residential habilitation services and to bar their commitment to state institutions;

WHEREAS Plaintiffs Mumford and Yale have been placed in residential habilitation programs;

WHEREAS, a provider, Keystone Human Services (Keystone), has assured Defendants that it is developing a residential habilitation program for Plaintiff Blakely and it is anticipated that she will be discharged from the psychiatric hospital to that program no later than January 15, 2012;

WHEREAS Defendants deny all liability;

WHEREAS the parties desire to resolve this matter amicably;

NOW, THEREFORE, Plaintiffs and Defendants enter into this Settlement Agreement.

II. Defendants' Obligations

1. Defendants will assure that Plaintiff Blakely is discharged to an appropriate residential habilitation program provided by Keystone no later than January 15, 2012.

2. Defendants will maintain ongoing contact with Keystone Human Services prior to Plaintiff Blakely's discharge to assure that Keystone is working diligently to develop the residential program for Plaintiff Blakely in a timely fashion. Defendants will promptly notify Plaintiffs' counsel if any impediments, obstacles, or barriers arise that may delay Plaintiff Blakely's discharge from the psychiatric hospital.

3. Defendants will not accept Plaintiff Blakely for admission to a state-operated intermediate care facility for persons with mental retardation and will oppose any efforts by third-parties to involuntarily commit Plaintiff Blakely to a state-operated or private intermediate care facility for persons with mental retardation.

4. Defendants will oppose any efforts by third-parties to involuntarily commit Plaintiff Blakely to a psychiatric hospital unless the parties have first explored alternatives to commitment to a psychiatric hospital and DPW treating professionals determine that she meets the standard for involuntary commitment pursuant to the Mental Health Procedures Act.

5. Defendants will inform Keystone that it is responsible to communicate with Plaintiff Blakely's mother, her Administrative Entity, and designated DPW staff before it initiates any effort to involuntarily commit Plaintiff Blakely to a psychiatric hospital or mental retardation facility.

6. Defendants will not terminate or disenroll Plaintiff Blakely from the Consolidated Waiver.

III. Jurisdiction, Approval, Enforcement, Reinstatement, and Attorneys' Fees

1. The parties will jointly request that the District Court approve this Settlement Agreement and retain continuing jurisdiction. If the District Court declines this request, this Agreement will be null and void and the matter will be reinstated by the District Court for appropriate resolution.

2. The Settlement Agreement is not nor is it to be construed as a consent decree. *Plaintiffs may not seek a remedy of contempt of court for any violation of the*

Agreement. Plaintiffs, however, may file a motion for specific performance to enforce Paragraphs II.2 through II.6 of the Agreement at any time until this case is dismissed.

3. If Plaintiff Blakely is not discharged to an appropriate residential habilitation program by January 15, 2012 and/or does not remain in that placement for at least thirty (30) days after her discharge, this case will be reinstated by the District Court for appropriate resolution.


4. If Plaintiff Blakely is discharged to an appropriate residential habilitation program by January 15, 2012 and remains in that placement for at least thirty (30) days after her discharge, the parties will file a Stipulation of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) by February 29, 2012 to dismiss all claims by all Plaintiffs against all Defendants.

5. Defendants will pay to Plaintiffs' counsel, the Disability Rights Network of Pennsylvania, the sum of \$25,000.00 for attorneys' fees, litigation expenses, and costs no later than thirty (30) days after the Court dismisses this matter.

6. If this case is reinstated pursuant to Paragraph III.3 of this Agreement, Plaintiffs may petition the District Court for payment of attorneys' fees, litigation expenses, and costs incurred since the inception of this litigation, provided, however, that Plaintiffs will reduce their request by the sum of \$25,000 to reflect the payment made pursuant to this Agreement. Nothing in this Paragraph should be construed to entitle Plaintiffs to recovery of attorneys' fees, litigation expenses, and costs.

Dated: October 3, 2012

By:



Robert W. Meek
Disability Rights Network of Pennsylvania
1315 Walnut Street, Suite 500
Philadelphia, PA 19107-4705
(215) 238-8070

Counsel for Plaintiffs

Dated: October 4, 2012

By:




Barry N. Kramer
Chief Deputy Attorney General
Office of Attorney General
21 South 12th Street, 3rd Floor
Philadelphia, PA 19107-3603
(215) 560-1581

Counsel for Defendants

APPROVED: *AND SO ORDERED:*

October 18, 2011



The Honorable Joel H. Slomsky
United States District Judge