

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

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Patricia Welsch, by her father
and natural guardian, Richard
Welsch, et al., on behalf of
herself and all other persons
similarly situated,

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

Plaintiffs,

No. 4-72 Civ. 451

-vs-

Arthur Noot, et al.,

Defendants.

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FINDINGS OF FACT

1. Lynne A., Robert P., and James R. are members of the class in this action who were discharged from Cambridge State Hospital to the Alice Haney Residence in Lester Prairie, Minnesota on February 4, 1981, April 7, 1981, and July 30, 1981 respectively. Exhibits M-1, ¶ 1; M-2, ¶ 1.

2. For each of these class members, the determination was made in the discharge planning process that their day program should be provided by the McLeod County Developmental Achievement Center. Exhibits M-1, ¶ 2; M-2, ¶ 2; M-3; M-4; M-5.

3. Each of these class members started attending the McLeod County DAC on a full-time basis after discharge. Ramsey County, the county of financial responsibility for

each of them, contracted for full-time services for them in 1981 from the date of their enrollment to the end of 1981. Exhibits M-1, ¶¶ 3-4; M-2, ¶¶3-4; M-6, ¶ 4 and Appendices A-C.

4. In accordance with a resolution of the Ramsey County Board of Commissioners reducing out-of-county DAC payments to 85 percent of the 1981 approved level, Ramsey County determined that for each of these residents payment for DAC services for 1982 would be limited to \$4,307, a sum which will pay for only 156 of the 198 days the DAC is in session in 1982. Exhibits K-8; M-1, ¶ 6; M-2, ¶ 2; M-6, ¶¶ 5-6.

5. The McLeod County DAC has provided full-time service for these class members thus far in 1982. Payment for these services from Ramsey County was available only through October 7, 1982. Exhibits M-1, ¶ 7; M-2, ¶ 7; M-6, ¶¶ 5, 9-10.

6. The McLeod County DAC will not provide free services for these class members. Exhibits M-1, ¶ 8; M-2, ¶ 8; M-8, ¶ 5; M-6, ¶ 14. However, the DAC has extended service through Friday, October 15, 1982. Exhibit M-6, ¶ 17.

7. Ardo Wrobel, Director of the Mental Retardation Division of the Department of Public Welfare, who responded on behalf of the defendant Noot to the Court Monitor's Notice of Initial Determination, stated that it is "Probably true"

that no day program designed to meet these class members' needs would be provided at their residence if they were not attending the DAC but that they would be involved with whatever might be arranged for a much older group of residents at the Alice Haney Residence. Exhibits M-1, ¶ 9; M-2, ¶ 9; M-7, ¶¶ 4-5.

8. Nobody from the Department of Public Welfare has contacted the DAC Director or the Alice Haney Director to determine the effect of a loss of DAC services on these three class members. Exhibits M-6, ¶¶ 13, 16; M-7, ¶ 6. Ramsey County personnel have not been involved in on-going planning of programs for these class members since discharge. Exhibits M-6, ¶ 9; M-7, ¶ 6; M-1, ¶ 5; M-2, ¶ 5; M-8, ¶ 4. There is no suggestion in the Commissioner's response to the Court Monitor's notice that individualized determinations had been made to reduce programming time. Exhibits M-2; M-8, ¶ 7.

9. At the conference with the Court Monitor, Ardo Wrobel, the Commissioner's representative at that meeting, stated that "Our efforts here are directed toward achieving compliance with the state standard of three days." Exhibit K-8, ¶ 6. Without an order from this Court, the Commissioner and his representatives appear unwilling to take any action directed toward implementation of the discharge plans developed for these class members pursuant to paragraph 22 of the Consent Decree.

CONCLUSIONS OF LAW

1. The appropriate day program for each of these class members to which they are entitled pursuant to paragraph 26 of the Consent Decree is defined, in the first instance, by the discharge plans prepared pursuant to paragraph 22 of the Decree.

2. In the absence of any evidence presented by the Commissioner demonstrating that a modification had been made in the discharge plan for any of these class members on the basis of individual need, the Commissioner is obligated by the Consent Decree to take all necessary action to assure implementation of these class member's discharge plans including provision of full-time DAC services at the McLeod County DAC.

3. A specific order to the Commissioner to take such action is necessary to assure implementation of the Decree.

THEREFORE, IT IS HEREBY ORDERED, THAT:

1. The defendant Commissioner of Public Welfare, his successors in office, and all persons in active concert or participation with him, should forthwith take whatever action or actions may be necessary to assure that Lynne A., Robert P., and James R. are provided developmental achievement center services at the McLeod County DAC on a full-day, full-time basis until such time as a modification of their DAC programming is made in accordance with the

provisions of the Consent Decree on the basis that such modification is necessitated and justified to meet individual needs.

Dated this 1 day of November, 1982.

/s/ Earl R. Larson

SENIOR UNITED STATES DISTRICT
JUDGE