

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Patricia Welsch, et al.,
Plaintiffs,

v.

Sandra S. Gardebring, et al.,
Defendants.

IMPORTANT NOTICE REGARDING POSSIBLE
SETTLEMENT OF CASE INVOLVING PERSONS
WITH MENTAL RETARDATION AT REGIONAL
TREATMENT CENTERS OR DISCHARGED FROM
THEM SINCE SEPTEMBER 15, 1980.

No. 4-72 Civil 451

Background

In September, 1980 this Court approved an order known as a Consent Decree in this case. That Decree stated that the Court would end jurisdiction over the case on July 1, 1987 if the defendants had done substantially what was required by the Decree.

Rather than have another trial of this case to see whether there has been substantial compliance with the 1980 Decree, the Commissioner of Human Services and the attorneys representing the plaintiffs in the case have proposed a settlement. The Court must approve this settlement before it goes into effect. Before the Court decides whether to approve it, the Court will receive comments in writing or at a hearing by or on behalf of persons with mental retardation who live at the regional treatment centers or who have been discharged from the regional treatment centers since September 15, 1980.

Hearing

A hearing will be held at 9:30 a.m. on Friday, June 5, 1987 in Courtroom No. 1 of the United States Courthouse in Minneapolis, Minnesota. At least two days before the hearing, persons who want to submit written comments on the proposed settlement and persons who want to comment on it at the hearing must submit their written comments or a written notice of their desire to speak at the hearing to the Clerk of the District Court, 514 United States Courthouse, 110 South Fourth Street, Minneapolis, Minnesota 55101.

The Proposed Settlement

The settlement agreement is a document called a Negotiated Settlement. Many of the terms of that agreement are included in a Proposed Order which this Court will sign if the settlement is approved. With very limited exceptions, this new order would replace the 1980 Consent Decree.

Copies of the Negotiated Settlement and the Proposed Order are available at the places listed below. The main provisions of the proposed settlement are as follows:

1. The settlement agreement depended on passage of a law by the Minnesota Legislature setting up modified appeal procedures for persons with mental retardation regarding actions by county case managers in arranging services for them and the quality of the services they receive. This law has been passed.
2. The monitor position will be continued for a limited time, but the monitor will have different duties. The monitor will not oversee compliance with the new Order and will not recommend decisions in individual cases. The new appeals procedure must be used.
3. The regional treatment centers will be licensed to serve only adults with mental retardation. Children with mental retardation will be admitted only if a license variance is approved by the Department of Human Services and only if a plan for community placement is developed with a specific date for discharge.

4. The staff ratios in the regional treatment centers required by the 1980 Consent Decree will continue.

5. Procedures will be developed for review of program plans and of community needs assessments for persons with mental retardation who have special needs, for monitoring the use of psychotropic medications, and for discharge planning and evaluation.

6. Community residential and day programs which have been the subject of a formal non-compliance notice under the Consent Decree will be reviewed.

7. Reports will be issued on training programs by the Department of Human Services, on physical therapy services and the use of psychotropic medications in the regional treatment centers, and on county case management caseloads.

8. New rules will be proposed governing residential services for persons with mental retardation (Department of Human Services Rule 34) and supervised living services and other similar waived services.

9. Field reviews will be made of services to 250 persons with mental retardation.

10. From a group of about 550 persons with mental retardation in the regional treatment centers who are very physically handicapped, deaf, or have severe behavior problems there must be at least 100 persons discharged or 25 percent of the total number of persons discharged from July 1, 1987 to June 30, 1989, whichever is less.

11. Parents and guardians will have the right to appeal proposed discharges through the new appeals process.

12. The case will be dismissed by the Court when the Commissioner of Human Services has taken specific actions required by the settlement. No specific date for dismissal is set, but it is likely to be sometime in 1989.

Copies of Proposed Settlement Documents

Copies of the Negotiated Settlement and the Proposed Order may be reviewed at the following places:

The main office of each
Regional Treatment Center.

Department of Human Services
Fourth Floor
Centennial Office Building
658 Cedar Street
Saint Paul, Minnesota 55155

Legal Advocacy for Persons with Developmental
Disabilities
222 Grain Exchange Building
323 Fourth Avenue South
Minneapolis, Minnesota 55415
ARC Minnesota
3225 Lyndale Avenue South
Minneapolis, Minnesota 55408

A copy of the Proposed Order has been sent to each county social service department.

Copies of the settlement documents are also on file with the Clerk of the United States District Court, 514 United States Courthouse, 110 South Fourth Street, Minneapolis, Minnesota 55101.

If you have questions about the proposed settlement or the hearing this Court will hold, you may call Luther Granquist or Anne Henry, the attorneys for the plaintiffs (332-1441 or 1-800-292-4150).

/s/ Harry H. MacLaughlin
UNITED STATES DISTRICT JUDGE