
OHIO DEPARTMENT OF MENTAL RETARDATION
AND DEVELOPMENTAL DISABILITIES

Bob Taft, Governor
Kenneth W. Ritchey, Director
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VISIONS ALERT - Tuesday, June 29, 2004
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State Announces Settlement in Martin Class Action Lawsuit

State MRDD Director Kenneth W. Ritchey today announced that Gov. Bob Taft has signed the settlement agreement on the long-standing *Martin v. Taft et al.* class action lawsuit.

Ohio Legal Rights Service (OLRS) filed the case in 1989 on behalf of 8000 Ohio citizens with disabilities. The plaintiffs sought relief to the state's bias toward institutional placement and a reduction to the state's waiting list for community residential services.

"This is a landmark settlement," said Gov. Taft in a press statement issued today. "I am pleased that all parties were able to work through the complex issues and come to a resolution without taking the case to trial."

U.S. District Judge Edmund A. Sargus in January praised the efforts of the plaintiffs and the defendants to reach a compromise in the case. The judge noted that it is rare for parties to work so closely together in a federal lawsuit. He believed that all sides had the same goal in mind but just differed on how to get there.

In 1999, the U.S. Supreme Court decided on the landmark *Olmstead* case that concluded that states should administer programs for individuals with disabilities in the most "integrated" and "least restrictive" environment possible for their needs. Though the high court differed on how it should be done, it left it up to individual states to make reasonable progress.

Since the high court's decision, Ohio has made great strides in the spirit of *Olmstead*. The settlement agreement credits the Taft administration for moving forward with the principles of the 2000 MRDD Vision Paper; the 2001 Ohio Access Report (and the 2004 update); the state's community health, safety and infrastructure improvements; increased residential service options; and with gaining federal grants to further the principles of independent community living for people with disabilities.

Both the OLRs and ODMRDD celebrated the decision as fair and equitable to all parties involved.

“The Martin settlement resolves a long chapter in OLRs’ fight for equality and dignity for Ohioans with disabilities,” said OLRs Director Carolyn S. Knight. “As mandated by the Developmental Disabilities Act and the Americans with Disabilities Act, people with disabilities should live in homes of their choosing, with supports provided by people they choose, in the most integrated setting appropriate to their needs.”

“I am extremely delighted with the results of the settlement,” said Director Ritchey. “Today’s agreement is a clear indication that the efforts by the State of Ohio to increase and improve community options for people with disabilities is being successful.”

The settlement agreement was negotiated among representatives of Ohio Legal Rights Service on behalf of plaintiffs, the Governor’s Office, the Ohio Department of Mental Retardation and Developmental Disabilities, the Ohio Department of Job and Family Services and the Office of Attorney General Jim Petro.

The State of Ohio agreed to continue to increase its community capacity and allow class members to provide input into alternative placements outside of public and private institutions. The state must also work with the legislature to allow for continued expansion through the Medicaid waiver program.

Judge Sargus will now schedule the settlement for a fairness hearing in the U.S. District Court, Southern District of Ohio.

These are some of the more significant points upon which the parties agreed:

1. Defendants agreed to take two steps to provide opportunities for the class members to choose community based services. First, the Governor will propose to eliminate intermediate care facilities for the mentally retarded (ICFs-MR) as an optional service under Ohio’s Medicaid program. Second, based on legislative approval of the Governor’s proposal, defendants will seek a waiver from the U.S. Department of Health and Human Services to fund current ICFs-MR. The waiver will insure that each resident of an ICF-MR receives services in the residential setting they choose (this waiver shall not compromise any existing waivers.)
2. The parties agreed that a definition of choice/self-determination be established. That definition must include, at a minimum, that a

class member and his or her closest allies (e.g. family members) decide where the class member wants to live and who shall provide him or her with services.

3. Defendants agreed to allocate a number of Ohio's Individual Options (IO) waivers first to persons currently living in nursing facilities (NF) who choose to live in the community, and to persons currently living in ICFs-MR who choose to live in the community.
4. The ODMRDD and the ODJFS agreed to conduct surveys of residents living in development centers and private ICFs-MR respectively to determine where they want to live, and use this information for the purpose of asking the state for funding of community residential services.
5. Defendants agreed to report on the progress of the implementation of the settlement terms and also guarantee that plaintiffs have access to meetings conducted and records kept in relation to that implementation.

Notification Process: Because of the large size of the certified plaintiff class and the diminished cognitive abilities of many members, the parties do not propose dissemination to plaintiff class members individually. The parties propose dissemination of the notice in this case to all county boards of mental retardation and developmental disabilities; all superintendents of all developmental centers in the State of Ohio, the administrators of all ICFs/MR, the administrators of all nursing facilities, with instructions that copies of the notice and summary shall be posted conspicuously in all residential areas and distributed to all client advocates. As well, Advocacy and Protective Services, Inc. APSI, a non-profit corporation that serves as guardian for many plaintiff class members, will receive notice. In addition, the notice will be made available to any class member or the member's guardian requesting notice. Notice and a copy of the proposed order will be provided to all amicus who have participated in the case. Notice will be disseminated in the newsletter of the Ohio Legal Rights Service, and placed on that agency's website <http://olrs.ohio.gov>. Finally, plaintiffs' counsel has been contacted directly by many interested parties, and will send a copy of the notice and proposed consent order to those individuals.

Where We've Come:

Over the past four years, the administration has grown Ohio's capacity to serve people with disabilities in the community by more than 15,000 through the Home and Community-Based Services (waiver) program. This includes 6500 additional Individual Options waivers and the ability to provide in-home supports to another 6,000 families through the new Level I waiver.

The Ohio Legal Rights Service (OLRS) is an independent state agency and the federally and state designated Protection and Advocacy system and Client Assistance Program for people with disabilities in the State of Ohio. The mission of the OLRS is to protect and guarantee the human, civil, and legal rights of Ohioans with disabilities. More information can be found at the OLRS website: <http://olrs.ohio.gov> See Governor Taft's release at <http://www.governor.ohio.gov/releases/index.htm>

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