

**Class Action Litigation:
MR/DD ICFs/MR Deinstitutionalization Cases Filed By
Protection and Advocacy**

ICFs/MR = Intermediate Care Facilities for Persons with Mental Retardation

****facilities closed due to litigation**

1. **ARKANSAS: Porter, et al v. Knickreim, et al., U.S. Dist. Court Eastern District of Arkansas 4:03 CV00812SWW (2003) (appeal heard June 16, 2006).** Complaint alleges that the state's admission and discharge procedures for its state operated ICFs/MR are unconstitutional.
2. **CALIFORNIA: Capitol People First, et al. v. California Department of Developmental Services, et al. (2002).** Complaint alleges that California has caused thousands of individuals to be "needlessly isolated and segregated" in large congregate public and private facilities, in violation of federal and state law, and the Constitution. Proposed class would include about 6,000 people in large ICFs/MR, and 400 people each year at risk of institutionalization. Class action was denied. In November, 2002, the California Association of State Hospital Parent Councils for the Retarded and the California Association for the Retarded successfully sought intervention because they not believe that the defendants will adequately represent individuals in facility settings.
3. ****CALIFORNIA: Coffelt v. Department of Developmental Services, No. 91-6401 (Ca. Super. Ct. Jan. 1994), 18 MPDLR 185.** Stockton and Camarillo Developmental Centers **closed** in 1996 and 1997; over 2,000 people from all state-operated developmental centers **transferred** to community-based settings.
4. **FLORIDA: Cramer v. Bush, Case No. 96-6619-CIV-FERGUSON (1996) (formerly Cramer v. Chiles).** Involved all privately-operated ICF/DD facilities.
5. ****FLORIDA: Brown v. Bush, Case No. 98-673 - CIV-HOEVELER (U.S. District Court for Southern Florida, March 24, 1998) (formerly Brown v. Chiles).** Plaintiffs sought declaratory judgment and permanent injunction to prevent the state from unnecessarily institutionalizing individuals with developmental disabilities in state operated ICFs/MR. Families unsuccessfully appealed the denial to intervene and opposed a settlement agreement that ultimately led to the closure of two state facilities, Community of Landmark (June 2005, 130 residents) and Gulf Coast Center (2010, 300 residents).
6. **ILLINOIS: Ligas et al v. Maram et al (U.S. District Court for the Northern District of Illinois, 05-04331) (July 2005).** Complaint alleges that Illinois' policies result in the unnecessary institutionalization of individuals with developmental disabilities in large, privately operated ICFs/MR, home to 6,000 people. In October 2005, the Illinois Health Care Association, residents of Misericordia (a private facility), and 9 residents of private facilities unsuccessfully sought intervention. At a subsequent Fairness Hearing to consider a proposed settlement, more than 2,500 written objections were received and 200 "objectors" appeared in court. As a result, the proposed settlement was denied and objectors were allowed intervention. A new round of negotiations among parties, including objectors, led to a proposed settlement that respects choice, while also enhancing community-based option. The proposed settlement, which now has approval of all parties, will be the subject of a Fairness Hearing in spring 2011. Approval is expected.

7. **IOWA: Conner v. Branstad, No. 4-86-CV-30871 (S.D. Iowa), 839 F. Supp. 1346 (S.D. Iowa, 1993).** Involved Glenwood and Woodward Developmental Centers.
8. **KENTUCKY: Michelle P., et al. v. Holsinger, et al., U.S. District Court for Eastern Kentucky, 02-CV-00023 (February 2002).** Complaint alleges that Kentucky improperly wait listed individuals for Medicaid services. In January 2006, the parties announced a settlement that calls for the downsizing of Kentucky state operated ICFs/MR, including the closure of available beds upon each individual transferred. Family and advocacy groups unsuccessfully sought intervention to challenge the settlement agreement. These same groups have since initiated a lawsuit.
9. ****MARYLAND: Hunt v. Meszaros, No. PJM 91-2564 (D.Md. 1991).** Over a period of time, 435 people were transferred from Great Oaks Developmental Center, resulting in its ultimate closure in 1996.
10. **MICHIGAN: Olesky, et al. v. Haveman, et al. (state court, 1999).** Complaint filed on behalf of size individuals with developmental disabilities in nursing homes, referred to federal court and ultimately settled.
11. ****MICHIGAN: Michigan Association for Retarded Citizens v. Smith, Civ. A. No. 78-70384 (E.D. Mich.), 475 Supp. 990 (E.D. Mich. 1979).** Plymouth Human Developmental Center closed in 1984.
12. ****MONTANA: Travis D., et al. v. Eastmont Human Services Center (1996).** Complaint alleged that Montana violated federal law and the Constitution by failing to provide community services to residents of the state's two public ICFs/MR. In 2003, Eastmont Developmental Center closed (35 people). The settlement in this case calls for the continued downsizing and eventual closure of the Montana Developmental Center (67 people).
13. **NEBRASKA: Barbero v. Nelson (cite unavailable).** Involved Beatrice State Developmental Center.
14. **NEW JERSEY: New Jersey Protection & Advocacy v. Davy (U.S. District Court for the District of New Jersey, 05-04723) (September 2005).** Complaint with two named plaintiffs (one who now resides in the community) alleges that New Jersey unnecessarily confines at least 1,500 individuals with developmental disabilities in its state Developmental Centers.
15. ****NEW MEXICO: Jackson v. Fort Stanton Hospital and Training School, 757 F. Supp. 1243 (D.N.M. 1990), 15 MPDLR 248; appeal dismissed in part, rev'd in part; 964 F. 2d 980 (10th Cir. 1992), 16 MPDLR 512.** Fort Stanton Hospital and Training School closed in 1996.
16. ****NEW MEXICO: Jackson v. Los Lunas Center for Persons with Developmental Disabilities, Civ. No. 87-839 JP/LSC, United States District Court, District of New Mexico.** Los Lunas Center for Persons with Developmental Disabilities closed in 1997.
17. **NEW MEXICO: Lewis, et al. v. New Mexico Department of Health, et al. (U.S. District Court for New Mexico, 00-00021) (January 1999).** Complaint alleges that New Mexico violated federal law and the Constitution by failing to provide Medicaid services in the community to eligible individuals with disabilities, thereby causing them to go without services or forcing them to accept institutional services (in private ICFs/MR or nursing facilities).

18. ****OHIO: Martin v. Taft, No. C-2-89-362 (S.D. Ohio) (1989).** This lawsuit was originally filed as a waiting list lawsuit. In June 2004, the parties announced that they had arrived at a settlement agreement that focused on providing community services to individuals who reside in state-operated residential centers, nursing homes, and large ICFs/MR. Under the terms of the agreement, Governor Taft, in his executive budget, agreed to . . . the elimination of ICFs/MR [public and private] under the State of Ohio's Medicaid plan." After a torrent of protest from more than 30,000 people, the judge denied the settlement agreement. Springview (2005, 86 residents) and Apple Creek (2006, 172 residents) developmental centers have closed.
19. **PENNSYLVANIA: Pennsylvania Protection & Advocacy v. Department of Public Welfare (U.S. District Court for Middle Pennsylvania) (September 2000).** This complaint alleges that residents of South Mountain Restoration Center, a state operated nursing facility that serves elderly individuals with severe mental disabilities, are unnecessarily institutionalized. Case was dismissed.
20. ****PENNSYLVANIA: Nelson v. Snider, Civ. A. No. 94-CV-440 (E.D. Pa.), 160 F.R.D. 46 (E.D.Pa. 1994); 19 MPDLR 41 [P&A named as plaintiff].** Embreeville Center closed in 1997.
21. ****PENNSYLVANIA: Richard C. v. Snider, Civ. A. No. 89-2038 (W.D. Pa., June 22, 1993), 17 MPDLR 596 [P&A named as plaintiff].** Western Center closed in 2000. Families of former Western Center residents have sued regarding manner of closure and present lack of services.
22. **PENNSYLVANIA: Benjamin v. Department of Public Welfare, 1:09-cv-1182 (U.S. District Court for the Middle District of Pennsylvania (June 22, 2009).** Complaint alleges that State failed to offer and provide Plaintiffs with community-based services. Case is filed as a class action and families of the affected facility residents are seeking intervention.
23. **TEXAS: McCarthy, et al. v. Hawkins, et al. Western District Court of Texas (03-CV-231) (September 2002):** The complaint charges that Texas has failed to "provide the plaintiffs and other Texans with mental retardation and developmental disabilities with community-based living options and services to which they are legally entitled that meet their needs." The complaint charged that about 17,500 people with mental retardation were waiting for community waiver services. The plaintiff's seek certification of a class that would include "all persons eligible to receive Medicaid waiver services . . ." including 11,000 individuals served in ICFs/MR who "are eligible to be considered for the kind or residential services that will enable them to become more fully integrated into the community."
24. ****TEXAS: Lelsz v. Kavanaugh, No. 85-2485 and 86-1166 (N.D. Tex), 673 F. Supp. 828 (N.D. Tex., 1987); judgment vacated and remanded, 807 F. 2d. 1243 (5th Cir. 1987), 11 MPDLR 97; 783 F. Supp. 286 (N.D. 1991), 16 MPDLR 187 [P&A intervened].** Travis State School closed in 1995, and Fort Worth State School closed in 1996.
25. **TEXAS: G.G.E. et al v. Perry, et al. (January 26, 2011):** Three named plaintiffs, represented by Texas' P&A, filed a lawsuit alleging that Texas policy and process fails to provide adequate opportunity for transition from Texas ICFs/MR. The three named plaintiffs seek to represent a class of 4,200 people.
26. **UTAH: Parrent v. Angus, No. 89-0907653CV (3rd Jud. Dis. Ct Utah, May 11, 1989).** Known as the Lisa P. lawsuit, certified class is all residents of the Utah State Developmental Center. Remedy sought was community placement. Since the 1993

settlement, more than 100 people have transferred from the Utah State Developmental Center. Between 1993 and 2001, the litigation cost the state \$1.7 million.

27. **UTAH: D.C. et al. v. Williams et al., No 02cv01395 (District Court, December 2002).** Complaint sought services for people on the waiting list stating that the State violated the ADA's integration mandate by placing individuals at risk of institutionalization, among other claims. In February 2006, case was dismissed after trial on issues.
28. **VIRGINIA: Arc of Virginia v. Kaine:** Plaintiffs, an association of advocates who seek total deinstitutionalization, are represented the Virginia Protection and Advocacy agency (VOPA). The complaint alleged that the proposed resizing and rebuilding of a state operated ICFs/MR violated certain federal laws, alleging associated funding should be used instead for community-based services. The case was dismissed in December 2009. Plaintiffs appealed, but later withdrew their appeal.
29. **WISCONSIN: Angela S., et al. v. Wisconsin, et al., Dane County case #1991CV0500 (Dane County, February 1991).** This class action lawsuit on behalf of minors (under age 14) at the Central Wisconsin Center (CWC) alleging that children were "languishing" at CWC without due process review. . The parents were informed via letter after the lawsuit was filed. The lawsuit was dismissed in 1995 after one lead plaintiff achieved age of majority, the other moved voluntarily out of state with his family, and state policy changed to require annual placement reviews for minors.
30. **WASHINGTON STATE: People First of Washington v. Rainier Residential Habilitation Center,** No. C-96-63-H-CCL (D. Mont. Aug. 23, 1996). Complaint sought community integration for residents of Rainier Residential Habilitation Center. Class action denied.
31. **WYOMING: Westin v. Wyoming State Training School, No. C90-0004 (D. Wyo., 1994).** Complaint sought improvements to services at Wyoming State Training School, as well as community integration for some residents. The suit was resolved by a Consent Decree which required the state to increase the number of staff and decrease the number of residents at the Training School, and to expand community alternatives. Under the terms of the Consent Decree, The transitions have reduced the Training School population from 330 in January 1993 to 93 in 2006.

Sources:

Complaints

General Internet Research

"Status Report: Litigation Concerning Home and Community Services for People with Disabilities," Gary A. Smith, Human Services Research Institute, May 29, 2006.

"Residential Services for Persons with Developmental Disabilities Status and Trends," Prouty, Smith and Lakin (eds.), University of Minnesota, June 2005.