

**NOTICE OF PROPOSED FINAL CLASS ACTION  
SETTLEMENT AND DISMISSAL AND HEARING**  
*Davis et al. v. California Health and Human Services Agency et al.*

**PLEASE READ CAREFULLY. THIS NOTICE MAY AFFECT YOUR RIGHTS IF YOU:  
ARE, WERE (WITHIN THE PAST 2 YEARS), OR MIGHT BECOME A RESIDENT OF  
LAGUNA HONDA HOSPITAL AND REHABILITATION CENTER (LHH).**

**THIS NOTICE DESCRIBES THE PROPOSED FINAL SETTLEMENT AGAINST SAN  
FRANCISCO AND THE STATE DEFENDANTS, YOUR RIGHTS AS A CLASS  
MEMBER AND WHAT YOU MUST DO IF YOU WISH TO OBJECT TO THE FINAL  
SETTLEMENT. A HEARING TO APPROVE THE FINAL SETTLEMENT WILL BE  
HELD IN COURTROOM 3 OF THE FEDERAL DISTRICT COURT IN OAKLAND ON  
MARCH 23, 2004.**

**I. NOTICE OF CLASS ACTION**

In July 2000, individual residents of LHH and the Independent Living Resource Center of San Francisco (Plaintiffs) sued the city and county of San Francisco and several State Departments (Defendants) because residents claimed they wanted care in the community rather than at Laguna Honda Hospital (LHH). Specifically, the lawsuit claimed that Defendants did not inform class members about, assess for, or offer or provide home and community based services instead of services at LHH. While the Defendants do not agree that they have violated any statutes or regulations, they have agreed to make the following changes:

1. San Francisco will start a Targeted Case Management (TCM) Program to screen, assess, and develop individual service/discharge plans for class members, and provide ongoing case management as appropriate. Staff of the TCM Program will not be employed by LHH or San Francisco General Hospital.
2. San Francisco will conduct trainings for LHH residents on community living options, start a Community Advisory Committee, and open a Community Resource Center at LHH.
3. If San Francisco does not make these changes, Plaintiffs may refile their claims.
4. Subject to the availability of funding, State Defendants will change the Pre-Admission and Resident Review (PASRR) process, so that the California Department of Mental Health's Level II form includes the individual's goals and community services that can meet the person's needs. The manual used by evaluators will be changed and evaluators will be trained about community service options. If funding is not obtained to implement the settlement with State Defendants, Plaintiffs may refile their claims.

**II. SETTLEMENT AGREEMENT**

A. Persons Included in the Settlement Class: All Medi-Cal eligible adults who:

- ARE OR WILL BECOME RESIDENTS OF LHH
- ARE OR WILL BE ON WAITING LISTS FOR LHH

- ARE OR WILL BE WITHIN TWO YEARS OF DISCHARGE FROM LHH
- ARE OR WILL BECOME PATIENTS AT SFGH OR OTHER HOSPITALS OWNED OR CONTROLLED BY THE CITY AND COUNTY OF SAN FRANCISCO, WHO ARE ELIGIBLE FOR DISCHARGE TO LHH.

B. Defendants are:

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY (CHHSA)  
 GRANTLAND JOHNSON, Secretary of CHHSA, sued in his official capacity;  
 CITY AND COUNTY OF SAN FRANCISCO (San Francisco);  
 CALIFORNIA DEPARTMENT OF HEALTH SERVICES (DHS);  
 DIANA BONTA, Director of DHS, sued in her official capacity;  
 CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (DSS);  
 RITA SANEZ, Director of DSS, sued in her official capacity;  
 CALIFORNIA DEPARTMENT OF MENTAL HEALTH (DMH);  
 STEPHEN MAYBERG, Director of DMH, sued in his official capacity;  
 CALIFORNIA DEPARTMENT OF AGING (CDA);  
 LYNDA TERRY, Director of CDA, sued in her official capacity.

C. Terms of Settlement.

1. San Francisco to implement Targeted Case Management (TCM) Program

Generally: By March 29, 2004, the City of San Francisco will start a new TCM Program to assist class members seeking home and community based services with assessment and service/discharge planning.

- All Laguna Honda Residents will be screened, assessed and provided with a service/discharge plan by March 29, 2005;
- You may personally request screening by the TCM Program, or be referred to the TCM Program by family or others. The TCM Program should screen you within 3 days of a request for services.
- All class members at risk of going to LHH will be screened, assessed, and provided with service/discharge planning as appropriate.
- The TCM Program will be part of the San Francisco Department of Public Health, not LHH or SFGH.
- Staff of the TCM Program will be social workers and nurses who have active case loads of no more than 15 people. They will be trained and knowledgeable about community programs and resources.

The purpose will be to:

- Determine the most integrated setting appropriate for you;
- Determine whether you are eligible for the community supports and services that you desire;
- Consider all the community supports and services that you may be eligible for, even if these are not available yet;
- Work with others such as family members if that is what you want;

- Provide information to you about your short term and long term options;
- Result in a comprehensive plan that includes all the needs identified in your assessment, your preferences, specific services for you to be referred to, and actions that have to be taken to get the services;
- You must be able to review, sign, and agree or disagree with the plan, and also have an opportunity to appeal it.

In addition:

- Ongoing case management services will be provided, if appropriate, and if you want them, to ensure all needed services are provided, including referrals to housing waitlists and coordination of services once you have housing.
- If you are scheduled for discharge within 180 days and/or need active discharge planning, you will receive case management services from the TCM Program.
- You will never be ***made*** to participate in the TCM Program, only screened, and if appropriate, given an assessment and service/discharge plan, which will inform you about the availability of home and community-based service options.

2. **Trainings for Laguna Honda Residents:** By March 19, 2004, the City of San Francisco shall develop trainings to help you learn about community options and services. They will be provided every two months to interested residents of Laguna Honda.

3. Other Provisions

- **New Community Advisory Committee** to monitor the services provided by the TCM Program. The committee will review TCM data and consumer satisfaction surveys which will be given to the committee every two months.
- **New Community Resource Center in the Library:** By February 2, 2004, a part of the Laguna Honda Library will be set up as a community resource center where you can get current information about community options and services.
- **Peer Mentors** that are part of the TCM Program will be available at your request. They will be persons with disabilities who are already living in the community, knowledgeable about community living and available to help you learn more about community living and getting needed services.

4. What is Not Covered

The settlement resolves ***only*** the part of the lawsuit regarding assessments and providing information. Plaintiffs allege that the rest of the lawsuit concerns San Francisco and the State's responsibility for providing the community-based services you want and have been assessed to qualify for. Defendants deny that they have failed to fulfill any responsibilities they may have. The community-based services part of the case is being dismissed to give San Francisco time to set up its TCM Program. After September 29, 2004, lawyers for Laguna Honda residents and other class members may refile that part of the case again if residents who qualify for community services are not getting them within a reasonable time frame.

### III. WHAT YOU CAN DO

- A. You may do nothing, and you will remain a class member and be both entitled to and bound by the terms of equitable and injunctive relief set out in the Settlement if it is approved.
- B. You may object to the Settlement, if you follow the process for objections that is explained below.
- C. Regardless of whether you do nothing or object, if the Settlement Agreement is approved, you will retain the right to pursue any potential claims that you might have related to your individual experiences.

### IV. FAIRNESS HEARING AND PROCESS FOR OBJECTIONS

The terms of the Settlement Agreement described above were reached after months of intensive negotiations between the parties, which were conducted with the assistance of a Magistrate Judge of the United States District Court for the Northern District of California. The parties are requesting that the trial judge assigned to the case, U.S. District Judge Sandra B. Armstrong, approve this class-action settlement agreement under Rule 23(b)(2) of the Federal Rules of Civil Procedure. Rule 23(b)(2) provides that all members of a class-action settlement class are both entitled to and bound by the terms of equitable and injunctive relief set out in a settlement agreement approved under that Rule. Rule 23(b)(2) does not provide for any monetary damage payments to settlement class members.

A Fairness Hearing will be held on March 23, 2004 at 1:00 p.m. in front of United States District Judge Sandra B. Armstrong, Courtroom 3 of the United States District Court, 1301 Clay Street, Oakland, California, where the Court will consider the parties' request for Court approval of the Settlement Agreement, and will hear objections, if any, to the Settlement.

If you are a Settlement Class member who objects to the Settlement, you must submit a written Statement of Objection that: identifies the case, *Charles Davis, et al., v. California Health and Human Services Agency, et al.* Civ. No. C00-2532 SBA (N.D. Cal.); contains your name and address; and explains the basis of your objection. If you wish to appear and present such objection at the Fairness Hearing, you must also submit a Notice of Intention to Appear that identifies the case, contains your name and address, and explains the reason the appearance is desired. **Any Statement of Objection or Notice of Intention to Appear must be filed on or before February 25, 2004.**

The original copy of any Statement or Notice must be mailed to:

Clerk of the Court  
United States District Court  
450 Golden Gate Avenue  
San Francisco, CA 94102

In addition, copies of any Statement or Notice must also be mailed to:

Counsel for Plaintiffs:

Kim Swain  
Protection & Advocacy, Inc.

433 Hegenberger Road, Suite 220  
Oakland, CA 94621

Counsel for Defendant City of San Francisco:

Blake Loeb  
City Attorney's Office  
1390 Market Street, 6<sup>th</sup> Floor  
San Francisco, CA 94102

Counsel for Defendant State of California:

Beverley R. Meyers  
Deputy Attorney General  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102

V. How to Get Further Information or Accommodations

For additional information regarding the Settlement Agreement, a copy of the Settlement Agreement, or assistance in making an objection to the Court, Settlement Class members or their counsel may contact:

Larisa Cummings  
Disability Rights Education and Defense  
Fund, Inc. (DREDF)  
2212 Sixth Street  
Berkeley, CA 94710  
(510) 644-2555 (voice/TDD)  
(510) 841-8645 (fax)  
lcummings@dredf.org

Elissa Gershon  
Protection & Advocacy, Inc.  
433 Hegenberger Road, Suite 220  
Oakland, CA 94621  
1-800-776-5746 (voice/TDD)  
(510) 430-8246 (fax)  
[Elissa.Gershon@pai-ca.org](mailto:Elissa.Gershon@pai-ca.org)

Settlement Class members or their counsel may also obtain detailed information about the case by examining the case file located in the office of the Clerk of the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612. DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE FOR INFORMATION.

Dated: \_\_\_\_\_, 2004

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CLERK OF THE COURT  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA