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California's protection and advocacy system

LAGUNA HONDA RESIDENTS SETTLE CASE AGAINST SAN FRANCISCO FOR DISCRIMINATION

On September 18, 2008, Judge William H. Alsup granted final approval of the settlement agreement in *Chambers et al. v. the City and County of San Francisco*. This action was originally filed October 11, 2006 by six residents of Laguna Honda Hospital and the Independent Living Resource Center (ILRCSF) in San Francisco alleging discrimination in the form of unnecessary institutionalization under the Americans with Disabilities Act. These residents prefer, and have been determined to be capable of, living in their own homes and in the community. The purpose of the Settlement Agreement is to enhance community-based living options, through the provision of services and housing, to class members.

The case was brought by Disability Rights California as lead counsel, with co-counsel from Disability Rights Education and Defense Fund (DREDF), AARP Foundation Litigation, the Bazelon Center for Mental Health Law, and the law firm of Howrey LLP (pro-bono). For more information, please visit <http://www.pai-ca.org/advocacy/LHH/Index.htm>

The class –all Medi-Cal recipients who reside at LHH, are on the waitlist for LHH, are within two years post discharge from LHH, or are patients at SFGH and are eligible for discharge to LHH – was certified by the Court in July, 2007.

SETTLEMENT PROVIDES NEW COMMUNITY RESOURCES

Under the Settlement Agreement, San Francisco will enhance community-based living options, through the provision of services and housing, to class members. Class members will be assessed and provided with community-based housing and supports that they need and prefer, in order to leave or avoid institutional placement at Laguna Honda. The most important parts

of the settlement include:

- San Francisco Will Take Steps to Ensure Access to Affordable, Accessible Community Housing: One of the most significant programs is development of the LHH Rental Subsidy Program. Through this program, San Francisco will over the next five years, secure and subsidize scattered site, accessible, independent housing for approximately 500 class members who are eligible for community-based services, under programs such as Home and Community-Based Waivers, Community Behavioral Health Services (mental health), and the PACE programs.

Additional steps to increase class members' access to housing under the Agreement include: 1) steps to maintain and preserve class members' housing during periods of hospitalization or institutionalization; 2) providing housing options, other than independent housing subsidies, as appropriate and preferred by class members, including supportive housing and assisted living and subsidies to licensed residential care facilities; 3) modifying units as necessary and feasible, as well as providing and retaining wheelchair accessible housing units for class members who need such units; and, 4) developing a housing inventory and waitlist data base.

- 500 Waiver Funding Slots Will Be Made Available to LHH Residents: The NF A/B Waiver is one of several State-run Medi-Cal programs that provides class members with the option to choose from a variety of in-home long-term care services, rather than receive services in an institution. There are currently 500 waiver slots available to LHH residents which will provide Medi-Cal funded home and community-based services of up to \$77,600 per year per individual at no cost to San Francisco.
- Creation of a Diversion and Community Integration Program, (DCIP): San Francisco will establish a collaborative unit comprised of City staff in the Departments of Public Health and Aging and Adult Services, which will conduct assessments and prepare a Community Living Plan for each class member referred to and/or recommended for discharge from LHH. One function of the DCIP will be to provide an integrated approach for individuals referred for admission to, and diversion and discharge from, LHH, with the goal of placing those

individuals in the most integrated setting that is appropriate to their needs and preferences. The Community Living Plan will set forth the services to be provided for class members to live in the most integrated setting based on their assessed need and preferences.

- Provision of/Referral for Case Management and Wrap-Around Services: San Francisco shall refer class members for or provide them with case management and appropriate wrap-around services, (e.g., personal care, home nursing, meals, money management, transportation, etc.), as identified in their Community Living Plan.
- Enhancement of Mental Health/Substance Abuse Services: San Francisco will: 1) provide access to appropriate primary care and mental health services in the community; 2) conduct and make recommendations as to coordination of mental health services at LHH and in the community; and, 3) provide access to community-based mental health services, and mental health case management as appropriate, for all eligible class members.
- Named Class Members will all receive community-based services within a reasonable timeline.
- Laguna Honda Hospital: Plaintiffs are not in agreement that San Francisco should rebuild Laguna Honda with as many as 780 skilled nursing facility beds; however, if San Francisco does rebuild, the Parties agree that the mission of the rebuilt LHH facility shall include as a goal that the facility is for short-term, rehabilitative treatment. The operational focus of the rebuilt LHH will emphasize providing medical and other services and supports with a focus on enhancing community living skills to enable class members to successfully age in place in the community with appropriate services and supports. San Francisco will provide a full range of transition services to class members residing at LHH to facilitate transition to the community, including but not limited to: habilitation, choice counseling, and mental health services.
- Subject to Court approval, San Francisco will pay Plaintiffs' attorneys' fees and reimburse Plaintiffs' counsel for monitoring costs up to a capped amount.