

## **New Hampshire Legal Assistance/Disabilities Rights Center**

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### **Individuals with Disabilities Settle Class Action – New Year Brings Promise of Timely Decisions on Medicaid Applications.**

Concord, NH – Three New Hampshire residents have settled a class action lawsuit against the Commissioner of the New Hampshire Department of Health and Human Services (“DHHS”). The settlement requires DHHS to make timely disability decisions about Medicaid eligibility. New Hampshire Legal Assistance and the Disabilities Rights Center brought suit on behalf of individuals who were going without needed medical benefits due to the long delays in DHHS’s determination process. The residents sued DHHS in Federal District Court in February 2007.

Under federal law, DHHS is supposed to make decisions about a person’s Medicaid eligibility within 90 days unless there are unusual circumstances. However, it would often take over a year to make a decision about these vital benefits. Individuals may go without medical treatment or prescription medications during this time, or use money needed for basic necessities such as housing, food, or utilities. The three Plaintiffs waited, respectively, over 273 days, 188 days, and 170 days to hear whether they qualified for benefits.

After the lawsuit was filed, DHHS acknowledged that it had not complied with federal law and asked the Court to grant judgment in favor of the Plaintiffs. The parties filed a proposed joint final order with the Court on November 5<sup>th</sup>. On December 21, 2007, the Court preliminarily approved the proposed order which requires DHHS to notify disabled Medicaid applicants about the proposed settlement. If approved by the Court, the order would give DHHS 180 days to start making disability decisions within 90 days or to explain what unusual circumstances prevented a timely determination. DHHS would report back about its progress and share monitoring information with lawyers for the Plaintiffs who brought the case. DHHS would notify Medicaid disability applicants about their right to an administrative fair hearing whenever decisions take longer than 90 days.

“This outcome is a victory for all disabled New Hampshire residents who need help,” says Ben Mortell, lead counsel for the Plaintiffs. “I’m very pleased we were able to settle this case quickly so that DHHS can move forward on resolving the delays and quickly grant benefits to people in desperate need. The class action settlement also allows us to make sure that the delay problem is really fixed.”

New Hampshire Legal Assistance (NHLA) and the Disabilities Rights Center (DRC) represented the three NH residents who filed this case. NHLA is a statewide non-profit law firm which provides civil legal services to low-income and elderly residents of New Hampshire. DRC is a statewide non-profit law firm which provides civil legal services to disabled residents of New Hampshire.

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