

Christensen v. Miner Settlement Agreement

Health and Human Services Interim Committee | May 15, 2019

Settlement Agreement Summary

Parties:

- Plaintiffs: Disability Law Center (DLC), Staci Christensen, John R. Weakley, and a class of Medicaid eligible individuals who live in a private intermediate care facility (ICF) and are capable of and not opposed to living in a community-based setting.
- Defendants: Department of Health (DOH) and Executive Director Joseph Miner, Department of Human Services (DHS) and Executive Director Ann Williamson, Utah Division of Medicaid and Health Financing (Medicaid Division) and Director Nathan Checketts, and Utah Division of Service for People with Disabilities (DSPD) and Director Angie Pinna.

Issue: Plaintiffs argued they were not being served in the most integrated, least restrictive setting appropriate for their individual needs and did not have access to the community-based services required to avoid unnecessary institutionalization. Defendants argued that ICFs were a viable and appropriate choice for some individuals with intellectual or developmental disabilities and that certain services were limited by funding.

Agreement: The parties agreed, subject to legislative funding, that DOH and DHS would move approximately 300 individuals from ICFs to home and community-based services (HCBS) in the next six years, with priority given to those under age 22. In addition, the parties agreed:

- DOH and DHS would provide educational materials and information about HCBS service options to those in an ICF;
- DOH and DHS would review staffing and administrative infrastructure to ensure effective transfer of individuals in an ICF to HCBS;
- DOH would pursue statutory changes to place a permanent moratorium on licensing additional ICF beds;
- DOH would reduce the total number of licensed ICF beds in the state, prioritizing centers with 16 or more beds and more than two individuals per room;
- DOH would pursue administrative rule changes to address additional concerns raised relating to individuals who are under the age of 22 in an ICF;
- Defendants would establish an advisory committee through administrative rule to propose policies and practices to further reduce institutionalization and the size of ICFs;
- Defendants would provide a semi-annual report to DLC regarding the status of all individuals residing in a private ICF over the six year period; and
- party representatives would meet semi-annually for the six-year period to discuss compliance with the settlement agreement.