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Pennsylvania's Illegal Institutionalization of More Than 1,200 People with Mental Retardation Challenged

Lawsuit Filed on 10th Anniversary of Supreme Court Decision to Ban Unnecessary Segregation of Persons with Intellectual Disabilities

Harrisburg, PA (June 22, 2009) – A class action lawsuit has been filed today in the United States District Court against the Pennsylvania Department of Public Welfare (DPW) for violating the rights of over 1,200 Pennsylvanians with mental retardation and intellectual disabilities. The suit, Benjamin v. Department of Public Welfare, seeks relief for the residents of five large state-operated institutions who have not been offered the opportunity to move to appropriate community living arrangements.

Research shows that people with mental retardation can, with proper supports and services, improve independent living skills and thrive in community settings. For individuals who are capable of participating in community life, segregating them in institutions deprives them of their basic human rights. Pennsylvania has no sound reason not to develop community alternatives for the named plaintiffs and class members, and it would be **far less costly** to provide these individuals with services in the community. The **average annual cost of providing services in state-operated intermediate care facilities for persons with mental retardation is nearly \$228,000 per person**, more than double the average per capita cost of providing community services (including residential services). People with mental retardation have the same right as every other Pennsylvanian to live in a comforting home environment and be part of the community.

"My 71 year-old sister, Deanna, lived in an institution for 12 years. And while we, as her family, became comfortable knowing she was safe and secure, we also realized that she was not the same person we once knew," says Betty Dugan, Board President, PIER Family Satisfaction Team. "Making the change to a community-based home in 1990 has given her a chance to grow and be happy. She is so well cared for – both medically and emotionally. And I was pleasantly surprised by the level of acceptance, compassion and understanding she received in the community. Now, she is happy as a lark!"

Ten years ago today, the United States Supreme Court interpreted the Americans with Disabilities Act integration mandate to mean that states **cannot unnecessarily segregate individuals with disabilities in institutions** if they can receive services in more integrated community settings. The Third Circuit Court of Appeals in Philadelphia then ruled in 2004 that the Pennsylvania Department of Public Welfare had an obligation under the Americans with Disabilities Act and the Rehabilitation Act to develop and implement integration plans for individuals with disabilities.

“Ten years after the Supreme Court decision, DPW has still not developed – much less implemented – an integration plan for people with mental retardation who are unnecessarily institutionalized in state facilities,” says Robert Meek, attorney at Disability Rights Network of Pennsylvania who is representing the plaintiffs. “Persons with intellectual disabilities who are institutionalized in state facilities deserve the opportunity to be part of the community.”

Disability Rights Network of Pennsylvania seeks injunctive relief in the *Benjamin* case to assure that all residents of Pennsylvania’s state mental retardation institutions are properly evaluated to assess their need for community services and, if they are not opposed to discharged, are offered community alternatives in accordance with the integration mandates of federal law. Complaint available at www.drnpa.org/File/bencomplaint.pdf.

Disability Rights Network of Pennsylvania is a statewide, non–profit corporation designated as the federally–mandated organization to advance and protect the civil rights of adults and children with disabilities. Disability Rights Network of Pennsylvania works with people with disabilities and their families to ensure their rights to live in their communities with the services they need, to receive a full and inclusive education, to live free of discrimination, abuse and neglect, and to have control and self–determination over their services. For more information, visit www.drnpa.org or call 1-800-692-7443 (Voice) /1-877-375-7139 (TDD).

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