

Settlement Expands Developmental Disabilities Benefits in Idaho

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On October 24, 2016 a federal judge approved a preliminary settlement between the Idaho Department of Health and Welfare and developmentally disabled Idaho residents. The settlement, if finalized, will end a class action lawsuit brought against the Department in 2012 by the Idaho American Civil Liberties Union (ACLU) of Idaho on behalf of 12 Idaho residents with severe disabilities.

The lawsuit alleged that the Department cut the residents' benefits provided through Idaho's developmentally disabled Medicaid waiver program by as much as 40 percent, and refused to disclose how it calculated such reduction in benefits (claiming the calculation formula was a state "trade secret"), which made it nearly impossible for the residents to appeal the benefit cuts. Judge B. Lynn Winmill, enjoined the cuts, which resulted in the restoration of approximately \$30 million in Medicaid assistance annually. The Department appealed, but the injunction was upheld by the federal Ninth Circuit Court of Appeals. According to the ACLU of Idaho website, the settlement will impact about 4,000 people across Idaho, plus all future program participants.

Under the settlement agreement, the state must change its Medicaid waiver program for adults with developmental disabilities in five main ways:

1. A new model for setting personal support budgets will be developed, which process must involve program participants and an outside expert. The state will have to reveal the standards it uses to calculate benefit determinations and ensure all participants obtain assistance in receiving the benefits they need or appealing their budgets.
2. While the new model is being developed (defined in the settlement as the "Bridge Period"), program participants will be allowed to appeal their budget amounts, and obtain assistance with, or free training about, their appeals.
3. A new written "health and safety" standard will be developed which defines what a participant will need to show to receive a higher budget.
4. Each participant will be able to make copies of all of his or her Scales of Independent Behavior –Revised (SIB-R) information, including the scoring book that the assessor fills out*.
5. Budget notices will better explain changes to a participant's budget, and will address the appeal process, including whether a

participant wishes to represent his or herself or would like help with the appeal.

The ACLU of Idaho has created a website, www.OurHealthandWelfare.org, to assist those affected by the settlement in keeping informed and involved.

*The SIB-R is an assessment tool used to determine participant needs under the Medicaid program for adults with developmental disabilities.

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