

## Settlement would move some brain-injured from nursing homes

By Mark Jewell, Associated Press Writer | June 2, 2008

BOSTON --As many as 2,000 Massachusetts nursing home residents with brain injuries would gradually move into homes in the community under a proposed settlement of a lawsuit that alleges the state leaves too many people trapped in institutions in violation of federal law.

Advocates said Monday's settlement could mean greater freedom for the estimated one-quarter of the state's 8,000 brain-injured residents of nursing homes and rehabilitation centers who are capable of living on their own or in a group, with some nursing assistance.

"I think their quality of life will certainly be improved, and when that happens, your physical and mental health also improve," said Arlene Korab, executive director of the Brain Injury Association of Massachusetts, and mother of Kevin Korab, a 42-year-old brain-injured man who successfully lives in a Dartmouth home with another disabled man.

If a federal judge in Springfield approves the settlement after a hearing expected July 25, the state would resolve a class-action complaint filed in May 2007. The lawsuit was filed on behalf of five people with brain injuries, as well as Korab's organization and the Stavros Center for Independent living.

The settlement would bring about a shift a social services system that a state official acknowledged has emphasized nursing home care over independent living for people with brain injuries resulting from trauma such as car accidents or falls, or from brain-disabling strokes or disease.

"Some will need a group living situation, and others will go to their family homes," said Jean Maguire, state assistant secretary for disability policy and programs. "We have not been able to offer that before."

Two-hundred to 250 people are expected to move into homes in communities per year, over eight years.

While advocates estimated nearly 2,000 could eventually move under the settlement, Maguire said the state has only committed to 1,300, although she expects the total will be higher.

The lawsuit alleges the state violated the Americans with Disabilities Act by failing to provide adequate services for brain-injured people wishing to live outside institutions. Such services could include apartment living with help of an assistant, or staff-supported community homes.

Just 200 of about 8,000 brain-injured patients in Massachusetts are in community residential programs, the lawsuit alleges, with support services extended only to those who've suffered trauma, not to the vast majority of brain-injury patients whose injuries stem from a medical problem.

The lawsuit's lead plaintiff is Catherine Hutchinson, a mute quadriplegic after suffering a stroke in 1996. Hutchinson, now 55, recently left a Middleboro nursing home to live in The Boston Home, a specialized care facility -- a move that was long-delayed because of lack of support services.

When she learned about the proposed settlement, "I was so happy, I filled up with tears," Hutchinson said in an e-mail message that plaintiffs released Monday. "I think about the residents (with brain injury) ... and I know what their empty lives are like."

To move eligible people from institutions to homes in communities, the state will create two new programs at an eight-year cost of \$15 million above what it already spends to assist people with brain injuries.

Eligibility for a move would be limited to nursing home and rehabilitation center residents who are eligible for Medicaid, the state-federal partnership that provides health coverage and nursing home care to the poor. The federal government would share in the cost of complying with the settlement.

Maguire said the state will work with brain-injury advocates to identify people who may be able to live in homes on their

own or among other disabled people, with nursing assistance.

Advocates for brain-injured people have filed similar lawsuits in several other states, but those complaints have failed to yield favorable court rulings or settlements leading more people to move out of institutions, Korab said.

In Massachusetts, "This is something we've been trying to do for the past six (governor's) administrations," Korab said, initially through lobbying efforts that she said were largely ignored, leading to last year's lawsuit. ■

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