

Lawsuit settlement offers hope to about 1,900 brain-injured people in Massachusetts nursing homes that they will move toward community living

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By **STEPHANIE BARRY**

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SPRINGFIELD - Sitting in his wheelchair, 55-year-old Nathaniel Wilson likens his stroke of two years ago to stumbling.

Except that he can't right himself.

"Suddenly that commercial wasn't so funny anymore. You know - I've fallen and I can't get up?" Wilson said. "It's like someone dug a hole and I fell in."

Formerly a contractor and machinist, Wilson retained a devilish sense of humor and a way of sizing people up, but lost many physical and cognitive functions after the stroke. He cannot walk and has lived for two years at Wingate nursing home in Wilbraham.

"I am unhappy here. I would like to go fishing. I would like to cook in my own home," he said during an interview there.

While an independent life would have been unlikely before, a recent settlement in a class action lawsuit pitting brain-injured residents against the state has put Wilson and almost 2,000 others markedly closer to that goal.

U.S. District Judge Michael A. Ponsor yesterday endorsed a preliminary agreement between Gov. Deval L. Patrick's administration, five named plaintiffs and two agencies that advocate for brain-injured patients.

Pending certain federal approvals and funding by the state Legislature, approximately 1,900 brain-injured residing in nursing homes will move toward community placements or enhanced services under the agreement.

Steven J. Schwartz, director of the Center for Public Representation, told Ponsor that by working toward developing broader services for the brain-injured, it would put them on a par with other disabled groups who have fought against being warehoused.

"If we build an infrastructure for a new community system, and more support services (for the brain-injured) . . . we are now where we were in mental health treatment 40 or 50 years ago," said Schwartz, who has been at the center of nearly every significant battle for disabled rights over the past two decades.

Under the settlement, certain brain-injured who reside in nursing homes will be assessed, then considered for placements in a community setting or their own homes with enhanced supports. Massachusetts is the first to set on such a course.

Other provisions include more outreach programs and education for medical professionals and family members of brain-injured patients.

About 300 will be removed from nursing homes to community settings within three years. The government will require the new placements to be "cost neutral," or no more expensive than their institutional homes, Schwartz said.

Over the next eight years, they aim to move 1,000 brain injured annually toward community settings or enhanced care under the plan.

This court battle was abbreviated by a willing administration, said Schwartz and other plaintiffs. His agency and lawyers from WilmerHale in Boston represented the plaintiffs.

"This isn't a new idea," said Arlene Korab, executive director of the Brain Injury Association of Massachusetts, one of the plaintiffs. "We've been fighting for this for six administrations. We just happened to find one willing to work with us."

She said the proposed services will require an approximate \$50 million investment from the state, which will be matched by the federal government.

Those included in the class have suffered a sudden brain injury, either during an accident or after an unexpected illness such as a stroke. They do not include those with congenital brain injuries or degenerative conditions such as Alzheimer's.

For Raymond J. Puchalski, 59, another plaintiff in the lawsuit, his trauma came in the form of another driver who fell asleep at the wheel, hitting Puchalski head-on five years ago.

His girlfriend and legal guardian, Nickie Chandler, of Belchertown, said Puchalski was forced to spend more than a year in a nursing home and is now in a locked treatment facility in Stoughton.

She travels 100 miles each Sunday to visit him, the only time he is able to get outside. During an interview yesterday, she said the settlement will return to Puchalski, formerly of Montague, some measure of independence.

"He'll be able to make choices in his life as simple as not having to have scrambled eggs for breakfast . . . or being able to talk privately on the telephone, or choose his own television programs. He doesn't have that now," she said.

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amj1965 says...

It is about time. STAVROS has such a program for those with various disabilities-- HOWEVER They don't pay enough per hour \$10.84 as of now.

Many leave the job's as PCA's to find better paying job's in a hospital or homecare agency that pays more hourly with benefit's.

Homecare cost all the way around, but is less expensive than nursing home care. Thumbs up for Mr. Duval on that one. I want to see less of his black Surburban SUVs Cruising the Boston Common and sitting, running

parked near the Public Garden- GO GREEN- SAVE FUEL AND THE TAX PAYERS DOLLARS ** Patrick
don't let your staff spin the wheels for NOTHING **

Posted on 06/14/08 at 10:43AM

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