Press Release

For Immediate Release
Dec. 1, 2010

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Raymond Gould, Survivor of Brain Injury Among First to Move from Nursing Facility To Community As a Result of Hutchinson Settlement; Applications for Non-Residential Placement Accepted January 10-31.

Raymond Gould of Douglas, who sustained a brain injury caused by a sinus infection, was one of the first individuals to move from a nursing facility to live in the community as a result of the Brain Injury Association of Massachusetts’ (BIA-MA) landmark class action settlement, Hutchinson v. Patrick.

“I cried when I heard that Raymond would be moving,” said Carol Maxwell, Raymond’s mother, who has been at his bedside since his injury. “Finally, there will be help for my son and others! This is truly a blessing.”

The settlement resolved a class action lawsuit, brought by five named plaintiffs, all survivors of brain injury, the Brain Injury Association of Massachusetts, and the Stavros Center for Independent Living. The complaint charged that the Commonwealth was violating the Americans with Disabilities Act by failing to provide adequate community services. The settlement agreement involves the transition of 1900 class members from institutions to integrated, community living over the next eight years.

“This is a win-win situation for all,” says Cathy Hutchinson, the lead plaintiff in the case who will soon be moving into a new home in the community. “The settlement is cost neutral to the state, relieves nursing facilities of the burden of being overcrowded, and allows individuals with brain injury to live a more enriched life.”

“This is a historic moment for persons with brain injuries in Massachusetts,” says Arlene Korab, Executive Director of the Brain Injury Association. “The courageous survivors who agreed to participate in this class action lawsuit have paved the way for others with brain injuries to live life more fully, independently, and with dignity.”

According to Korab, Medicaid will be accepting applications for non-residential placement, January 10-31. To get an application, call 1-866-281-5602 or visit www.biama.org.

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“This agreement is a first in the nation for all people with brain injuries – regardless of the cause – and will serve as a model for other states,” says Steven J. Schwartz of the Center for Public Representation, lead counsel for the plaintiffs. “For individuals with brain injury, the promise of the Americans with Disabilities Act has become a reality.”

The Class Action lawsuit was originally filed in May 2007 and, with the cooperation of Commonwealth attorneys, was settled in June 2008. The settlement involved the establishment of two community programs for persons with brain injury. One of those programs, Community First, has yet to be approved. However, the second program, consisting of two Medicaid home and community-based waivers, began accepting applicants in May of 2010. In the first year of implementation, 105 individuals will be selected by lottery to move from nursing facilities into the community. A total of three hundred individuals will transition to integrated community settings during the first three years of the waiver program.

Once determined eligible, waiver participants will begin an individualized treatment planning process based on the principles of person-centered care. The waiver participant’s preferences, strengths and goals are at the heart of this planning process. A team is formed which may include individuals from the person’s community, providers, friends, family members and other professionals of the person’s choosing. With the individual’s vision for community living in mind, the team identifies both transitional and long term service needs, including ABI waiver services, other Medicaid funded services and community-based supports. An individual service plan is developed to inform discharge planning and support the participant once living in the community.

The Brain Injury Association of Massachusetts (BIA-MA), a private, non-profit organization, provides support to brain injury survivors and their families, offers programs to prevent brain injuries, educates the public on the risks and consequences of brain injury, and advocates for legislation and services.