

Brain Injury Suit Leads to Transformation of Services

Satisfied With Changes, Judge Posner Dismisses 2007 Suit Brought By Cathy Hutchinson

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OCT. 5, 2021.....A federal judge last month agreed that the state has made significant changes over nearly 15 years to the way it serves people who have an acquired brain injury by expanding home- or community-based living as an alternative to a nursing home setting.

U.S. District Court Judge Michael Posner in late September approved a joint motion to dismiss the Hutchinson vs. Patrick class action lawsuit brought in 2007 to compel Massachusetts to offer services for people with acquired brain injuries (ABI) in integrated community settings. A [2013 settlement](#) agreement called for the suit to be dismissed after at least six years if the state overhauled its services and remained in compliance, and Posner said the state went "even beyond the framework" of the requirements.

In [his order](#), the judge said the state had "(1) substantially expanded the Commonwealth's home and community-based service system for class members suffering ABI, (2) conducted extensive outreach to inform class members about opportunities for community living, (3) coordinated the transfer of class members who choose to transition to the community, and (4) provided a range of services and supports to persons with ABI in the community."

"The result has been a movement of thousands of persons out of nursing home and institutional settings to significantly improved community placements," Posner wrote.

Nicole Godaire, CEO of the Brain Injury Association of Massachusetts, said that 1,187 people with ABI have transitioned from a nursing home or long-term rehabilitation facility to a community-based setting as a result of the suit and settlement agreement. She said the reforms the state made as a result "have been nothing short of remarkable."

"The impact of our collective work extends well beyond the 1,187 people who transitioned to community services in recent years to the many more individuals trying to rebuild their lives after a brain injury who have and will follow them," Godaire said. "Because of the Hutchinson suit, these individuals will hopefully never have to subsist in the shadows of institutional care and will be able to benefit from a stronger system of community-based services."

In a press release issued by BIA-MA, Health and Human Services Secretary Marylou Sudders said the changes made in recent years demonstrate the administration's commitment to ensuring that people with ABI can live as independently as possible.

"Over the last 7 years, we have expanded outreach, coordinated transition plans and connected individuals with residential supports to make re-entering the community a positive and affirming experience," she said.

The Hutchinson vs. Patrick suit was brought in 2007 on behalf of five individuals, BIA-MA and the Stavros Center for Independent Living. A [2008 settlement](#) agreement saw about 200 people with ABI moved out of nursing facilities, including the case's namesake, Cathy Hutchinson.

A single mother of two from Attleboro, Hutchinson became a mute quadriplegic after a brain-stem stroke in 1996 and lived for more than a decade at a Middleboro nursing home before moving in 2011 to a Taunton residence she shared with four other women, BIA-MA said.

"Living in a nursing home was not the life I had planned. I felt so isolated from the real world. I had little to no privacy. I was not able to get all of the services and therapies that I needed, and each day that passed was a painful reminder of my disability," Hutchinson, who died in 2020, wrote after moving to Taunton. BIA-MA said that Hutchinson called her integrated living arrangement "a dream come true."

Posner wrote in his Sept. 27 order that he has "deep respect" for the plaintiffs and the state for the way they worked together "resulting in a very positive outcome for this vulnerable population."