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Federal Court Order Prevents Illinois from Cutting Children's Home Nursing Care

CHICAGO—Last week federal district court Judge Joan H. Lefkow issued a court order that protects home nursing services for children with extensive medical needs. Many of these children are dependent on complex medical regimens for routine bodily functions, such as eating, drinking, breathing, and oxygen regulation. HFS [Illinois' Medicaid agency] previously approved more than 1200 children for these services. However, HFS began to drastically reduce these services in 2014.

In her ruling, Judge Lefkow wrote, “Stated simply, monetary damages after trial will not be an adequate remedy... [t]here is a significant risk, that without proper in-home care or care at an institution...plaintiffs and class members can and will likely suffer severe life-threatening medical episodes.”

The case, *M.A. v. Norwood*, alleges that HFS worked with a third party contractor to review children's nursing cases. Of the first 178 children's nursing cases reviewed, 175 children (98%) were found no longer eligible for their previously-approved service levels; the families of 118 children (66%) were told that they would not receive any nursing services.

The case challenges the legality of such reductions, claiming that the Plaintiffs still have significant medical needs and severe impairments that require home nursing services to remain safely and stably at home. Pursuant to Judge Lefkow's order, HFS cannot issue further reductions without judicial approval and must restore any previously-reduced services.

“When you work with these children, you quickly learn how crucial these services are to the health of each child and the stability of each family,” says Shannon Ackenhausen, an attorney from the Legal Council for Health Justice who co-counselled the class action, after seeing over a dozen such cases referred from the nonprofit's medical-legal partnerships with local hospitals and health systems.

The Plaintiffs are represented by the legal team of Robert H. Farley, Jr., Legal Council for Health Justice (Shannon Ackenhausen and Thomas Yates), Cahill & Associates (Mary Denise Cahill) and the law firm of Winston & Strawn LLP (Ray Perkins, Bryce Cooper, and Alexandra Schaller).

“It is often the most vulnerable in our community whose rights are most in need of protection,” said Bryce Cooper. “We are encouraged by the Court’s order preventing any further reduction of medical services to these children and will continue to strongly advocate for them in Court.”

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Legal Council for Health Justice uses the power of the law to secure dignity, opportunity, and well-being for people facing barriers due to illness and disability. All programs partner with health and hospital systems to train and support the care provider network, provide direct representation to referred patients, and conduct systemic advocacy to promote health equity among populations facing chronic, disabling, and stigmatizing health and social conditions.
www.legalcouncil.org

Robert H. Farley, Jr., a graduate of the Northwestern University School of Law, has been providing legal representation to individuals with disabilities and their families for over twenty years in support of the rights, entitlements to adult and children's services, special education, the development of customized estate plans and special needs trusts, guardianship, and public benefits. www.farley1.com

Mary Denise Cahill has, for over twenty years, advocated for the rights of the special needs community through her Naperville law practice. She concentrates in the areas of school law including special education services under IDEA/Section 504, guardianship and ongoing estate planning and advice for families with special needs. Ms. Cahill is a graduate of Loyola University of Chicago School of Law. www.CahillAssociatesLaw.com

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