

Strange Bedfellows

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The judge speaks: Adult day health restored

In an oral ruling Friday, U.S. District Judge Richard A. Jones ordered immediate restoration of Adult Day Health benefits taken away two months ago from more than 950 elderly and disabled persons.

"People who have lost their services should contact their Adult Day Health provider immediately and figure out how to get back on the rolls," said Louise Ryan, Washington State Long Care Ombudsman.

Earlier this year, citing the state's budget crisis, the Legislature wiped out Adult Day Health for individuals who are receiving Medicaid-funded long-term care services in adult family homes.

The state Department of Social and Health Services proceeded, as of July 1, to terminate Adult Day Health services for about 950 people who live in community residential settings. Seven adult care facilities, in locations from Marysville to Spokane to downtown Seattle, were closed on July 1.

In Spokane, however, the Providence health care system continued - at its own expense - to provide nursing and rehabilitative services to those who were cut off by the state.

Judge Jones quizzed plaintiffs' and state lawyers during a 90-minute hearing on Friday. The judge announced what his opinion will be, and promised a written decision next week.

At the end of the hearing, attorney Andrea Brenneke asked the judge if he was ordering that benefits be restored immediately.

"Immediately," Jones answered.

Brenneke represented 27 patients cut off from Adult Day Health who filed suit against DSHS Secretary Susan Dreyfus in her official capacity. The plaintiffs later asked that the case be turned into a class action lawsuit on behalf of all those cut off from services.

"In tough economic times, the Legislature is entitled change its policies: If people are legally entitled to Medicaid benefits, however, they can't just cut them off," Brenneke said.

The state argued otherwise.

"Medically necessary services are being provided to all eligible individuals," said a DSHS legal brief.

It added: "Plaintiffs in this case are making demands to micro-manage Washington's optional benefits on a level not consistent with Medicaid law: The balance of equities tips in favor of allowing the department to implement the Legislature's reasonable policy decision."

Adult Day Health centers have been popular, not only among elderly disabled but other clients such as persons recovering from brain injuries.

Cut off patients returning to the program are likely to find themselves going to different care centers.

A popular Elderhealth Northwest care center, located across from Harborview Hospital, was forced to shut its doors on July 1.

But Elderhealth has three other care centers in King County.

Posted by **Joel Connelly** at September 4, 2009 1:53 p.m.

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