

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 24 1987

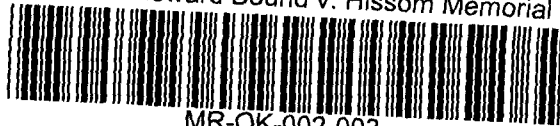
HOMeward BOUND, INC., et al.,)
)
Plaintiffs,)
)
vs.)
)
HISSOM MEMORIAL CENTER, et al.,)
)
Defendants.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 85-C-437-E

COURT PLAN AND ORDER OF DEINSTITUTIONALIZATION

Homeward Bound v. Hissom Memorial Ctr.



MR-OK-002-003

COURT PLAN AND ORDER OF DEINSTITUTIONALIZATION

INTRODUCTION, VALUES, AND GUIDING PRINCIPLES

The Court has entered its Findings of Fact and Conclusions of Law which reflect the factual and legal basis of its intervention into the state system for delivery of care to the mentally retarded, (hereinafter referred to as "State").

The Court recognizes and appreciates the responsibility of the State to administer its own policies and programs. It is the intent of the Court that the State exercise its natural leadership role in the implementation of this Order. Should the State not actively and in a timely manner fulfill the terms of this Order, the Court will be prepared to immediately intervene on behalf of the members of the class to fulfill such terms of the Order.

This Plan of Community Integration establishes how the members of the class will be moved into the life of the community. The conflicts before the Court deal with complex systems, detailed public policy and conflicting administrative remedies. This case brings into full public and judicial view the conflict which occurs when bureaucratic remedies to human problems violate societies' legal, moral and ethical values.

As Americans and citizens of Oklahoma, we believe in rugged individualism, the sanctity of the family and in taking care of

our own. We grow from the experience of living together in the community. We admire those who work and we work hard so that our children can have the best life and education possible. We have sacrificed to maintain our freedom and a life which is nonrestrictive. These values are our heritage which we preserve so that it can be passed down to our children - all of our children.

The quality of life made available in the United States as a result of this value base is the best in the world for those who are allowed to share in it. The "American Dream" rests at the foundation of the values we defend.

From the evidence presented it is apparent that these values have been denied to that portion of the citizens of Oklahoma who carry the label of "mental retardation". Therefore, this Order shall include "Guiding Principles" which are intended to direct the remedy developed by the parties as they create community alternatives for persons with mental retardation in Oklahoma. These guiding principles are as follows:

- * All persons are capable of growth and development.
- * All persons deserve to be treated with dignity.
- * All persons have value.
- * All persons must be involved in and carry the primary responsibility for the decisions which affect their lives.
- * All persons should live and work in the most natural settings.
- * All children should live with families.

- * All children have the right to a free and appropriate education.
- * All persons should live in and be a part of the community.
- * All citizens have the right to fully exercise their rights as guaranteed by the Constitution of the United States.

CLASS FOCUS OF THIS ORDER

For the purposes of this initial Order, the focus shall be on all persons who at the time of the filing of the complaint were at The Hissom Memorial Center (hereinafter referred to as "Hissom") and all persons who become clients of Hissom during the pendency of this action.

The Court wishes to make it known to all persons with mental retardation, their families, and the parties that the entire class as certified in the Court's Order of August 1, 1986 are of great and equal concern to the Court.

The record shows that a sense of great urgency exists with respect to the class members residing at Hissom. Therefore, this Order primarily addresses the needs of those individuals. The Court will issue other Orders which will directly affect the remaining class members.

This Order should not be construed to prevent the State from implementing the same supports and services for all of the persons in the class. All Oklahoma citizens with mental

retardation deserve such consideration. It is the Court's hope that this Order will act as a positive stimulus as the State strengthens its leadership role in the development and design of supports and services to persons with mental retardation throughout Oklahoma.

FAMILY FOCUS DEFINED

For the purposes of this Order, family for children shall mean the natural/biological family, an adoptive family or a surrogate family with specific responsibilities to love and nurture the child as if he/she were their own.

For the adult person with mental retardation, family shall mean that (those) significant other(s) with whom an adult chooses to live.

GENERAL TERMS AND TIMETABLES

The time period for the accomplishment of the terms of this Order shall be four years. The first year of this four year period shall begin the date Judgment is entered in this case.

During the next four years, persons with mental retardation who are the focus of this Order shall be placed into an appropriate community alternative at the following rates:

Year I	75 persons shall be placed into the community
Year II	125 persons shall be placed into the community
Year III	125 persons shall be placed into the community
Year IV	125 or the remaining persons shall be placed into the community

Individual class members or their families who wish to

volunteer to move to the community shall be placed first.

During each year of this Order, individuals with all levels of needs shall be placed into appropriate supports and services in the community. This includes individuals who are multiply handicapped, have medical needs or who have positive behavioral skill acquisition needs (behavioral problems).

Individuals will be placed only if the appropriate services and supports are available as outlined in their Individual Habilitation Plan (hereinafter referred to as "IHP"). The Court's Representative will review and determine appropriateness and adequacy of each individual's IHP as developed and designed by the Interdisciplinary Team (hereinafter "IDT").

From the date of this Order, no further admissions shall take place at Hissom.

From the date of this Order no further capital construction or renovation shall take place at Hissom without approval from the Court in advance.

Existing State regulation which would serve as a barrier to this Order will be brought to the attention of the Court for remedy.

Any plan called for in this Order shall, at a minimum, include provision for staffing, training, contracting for services, administration and support adequate to meet the terms of the Order.

Any plan called for in this Order shall include specific attention to a system of internal and external safeguards which will be designed to successfully implement that plan. These

shall include consumer, family and community participation at each level.

Any plan called for in this Order shall include provision for emergency procedures and protocols to be utilized on behalf of the class members served in the plan.

The Court is aware of approximately one hundred individuals who were living at Hissom at the time this action was filed but who have left the institution during the pendency of this action. It is the order of the Court that the State of Oklahoma:

1. Develop a plan to serve all one hundred of these individuals during this four year time period.
2. This plan shall be submitted to the Court within thirty days of the entry of Judgment in this case.
3. This plan shall specify the exact numbers to be served during each of the four years. Some individuals must be served each year beginning with the first year until all of these persons have been served.
4. All relevant assessments/evaluations shall be completed on all one hundred individuals the first year.
5. All one hundred individuals shall have case managers at the Ordered ratio of 1:10 the first year of this Order.
6. All Interdisciplinary Teams shall meet and develop Individual Habilitation Plans for these approximately one hundred individuals during the first year of this Order.
7. If any of these individuals are at home, in-home and family supports shall begin within ninety days of the

entry of Judgment in this case.

The Court is also concerned with the identification, location, and needs assessment of the balance of the class members. Such balance of class members has been defined, in this Court's Order of August 4, 1986, as persons who have been transferred to skilled nursing facilities or intermediate care facilities, yet remain Defendants' responsibility.

Accordingly, the State shall immediately proceed to identify and locate these class members and shall develop a plan to serve these individuals. Such plan will include provisions for assessment and placement in conformity with the principles contained in this Order and shall propose an adequate time table to insure expeditious placement. Such plan shall be filed with the Court no later than March 1, 1988 and shall include all information gathered regarding the identity and location of all such class members.

COURT MONITORING

The amount of monitoring necessary to assure compliance with the Court's Order will be decided by the behaviors of the parties involved. The Court will initially take a de minimis approach to such monitoring. A Court Representative will be appointed to act as "eyes and ears" in assisting the Court to monitor the progress being made in implementing the Court's Order. The Court Representative will secure and assist the Court in reviewing reports from the State on such topics as:

1. The first-year operational plan with appendices relating to (a) finding, assessing, and providing services to the 100 Hisson class members who have been discharged since the complaint was filed and (b) development of an adequate administrative infrastructure, staffing, and training to implement the Court's Order.
2. Monthly reports on hiring and assignment of Case Managers at a 1:10 ratio to the 550 designated Hisson class members.
3. Monthly reports on the conduct of the IDT assessments.
4. Monthly reports on finding all other Hisson class members located at home, in ICFs/MR, or in ICFs and IDT assessment of their needs.
5. Reports on the number of community placements by type of placement, within 10 days of each such placement.
6. Reports on all allegations of abuse or deaths that may occur among Hisson class members, with such reports to be made within 24 hours of such alleged incident.
7. Reports to be provided to the Court's Representative by the State upon reasonable request of such Representative, regarding such areas in which additional information would prove helpful to the Representative.

The Court Representative would also assist in educating the parties to the complaint and general public about the components of the Court's Order, the policy behind such Order, and such other details as the Court may deem relevant.

If events dictate that the Court must increase its

monitorization, the Court's Representative will assume greater monitoring responsibilities over the details of the State's activities on behalf of Hissom class members. If necessary additional staff will be hired to assist the Court-appointed Monitor. More detailed reporting will be required, specific IDT assessments will be reviewed against the placements that are made, and certification by the Court that each such placement is in the best interest of the individual will be required. At this point, the Court would increaasingly draw on outside expertise in judging the appropriateness of the State's activities on behalf of individual class members.

In the event that this intermediate level of monitoring proves insufficient to secure compliance with the Court's Order, the Court would appoint a Master-Receiver to manage those Court initiatives necessary to bring about such compliance. At this juncture, the Court would move from the role of advising the parties and resolving differences among them to one of taking the initiative for the planning and direction of the State's programs as they affect Hissom class members. In essence, everything would be accomplished under the direct authority of the Court, including design of the operational details of the deinstitutionalization plan.

In securing, as the case may be, a Court Representative, Monitor, or Master-Receiver, the Court will request from all parties the names of persons with successful experience in organizing and delivering community based services to persons with mental retardation. The Court would then make its selection of the best candidate.

SYSTEMS SAFEGUARDS

It is the desire of the Court that every community placement be a successful one. To ensure such success, the community system must have appropriate safeguards built into it.

The Court directs the State of Oklahoma to present a plan for the development and implementation of an on-going system of

safeguards which will assure quality services. This plan shall be submitted for Court approval ninety days after the date of entry of Judgment in this case and shall include precise details of a system of safeguards for persons residing in Hissom during the pendency of this action. --

This Plan shall include the establishment of goals in areas pertaining to:

1. Regulation. Particular attention shall be paid to licensure, policies and procedures of the programs, supports and services which currently exist or those which will be developed. If there are conflicts in regulation or if there are regulations which would hamper the swift and effective implementation of this Order, such regulations should be identified and modified.
2. Accreditation. The State has indicated its desire to become accredited by the Accreditation Council on Services for People with Developmental Disabilities. The Court commends the State for its leadership in this area and would request quarterly reports on its progress in becoming so accredited.
3. Systematic Communication. Advisory committees, client advisory boards, human and legal rights committees, behavior intervention teams, management teams, independent auditors and others have a very important role to plan in any quality safeguard system, and communication should be openly maintained among all such

groups.

4. Procedural Protections. Independent case management, internal investigation procedures, self advocacy training, interdisciplinary team planning, troubleshooting which identifies problems before they become harmful, incident/death reviews/reports, policy and procedural manuals for all program functions are only a few of the procedural protections which make an open efficient system work. Such protective mechanisms should be abundantly detailed in the State's plan.
5. Quality Assurance Mechanisms. Case file reviews, service evaluations by clients/parents/guardians, public education, employee evaluation, management information systems, client fund audits, and health and safety reviews are necessary parts of a comprehensive, annual audit which should be conducted of all service providers.
6. First Line Problem Solving. All staff and the management structure should allow for immediate problem resolution. Staff must be made to understand that they carry certain authority along with a great deal of responsibility.

Safeguards, as a mere means to an end, are effective only when the governing authority, advisory groups, staff and clients are committed to an open, responsive system. If that commitment should lapse, no methodology this Court could devise will achieve a safe service system.

1. Internal Safeguard Mechanisms: These must provide for the systematic assurance of human and legal rights, along with programmatic and systems protections for all persons who have mental retardation.
 - a. The State shall require the establishment of internal mechanisms including policies, procedures, and committees as required by the regulations set forth in the Accreditation Council on Services for People with Developmental Disabilities and all other applicable local, state, and federal regulations.
 - b. All of these policies and procedures must be written, compiled and available to all interested persons in administrative policy/procedures manuals.
 - c. Mechanisms must be established which provide for the routine monitoring of these policies and procedures and which provide for periodic review and revision. These monitoring and reviewing mechanisms should include the participation of consumers, parents/guardians and community representatives.
2. Education and Training: The State should provide for a systematic education and training process which will educate consumers, parents, staff, advisory committees, and governing board members on the rights of persons with mental retardation as well as applicable local,

state and federal regulations, including the terms and protections of this Court's Order.

- a. The State shall safeguard the rights of individuals, families and staff by providing a written summary of rights and instruction in how to exercise them in a simple and understandable form.
- b. The State shall insure that policy manuals are written and available through every service provider, and that the terms of those manuals are in compliance with this Court's Order.
- c. The State shall insure that each person with mental retardation receive citizenship training which shall include training on voting rights and responsibilities, consumer rights and responsibilities, organizational membership and participation, and awareness and utilization of advocacy services.

3. External Safeguard Mechanisms: These must provide for the assurance of exercising human and legal rights for all persons with mental retardation by supporting external mechanisms which enable individuals to access assistance in securing their rights.

- a. The State shall support the development of "self advocacy" organizations for persons with mental retardation who are class members.
- b. The State shall support the membership of parents, families and interested citizens in "group

advocacy" organizations such as the local Association for Retarded Citizens.

- c. The State shall provide assistance to persons with mental retardation in obtaining legal counsel, legal advocacy services, and/or protection services as the need arises.
- d. The State shall support the development of systems advocacy groups, such as legislative action committees, which will pursue necessary review and revision of legislation pertaining to rights of retarded citizens.

General Principles

Integration: The safeguard system should be an integral part of the service delivery system, not a separate procedure. Whenever feasible, it should use existing structures and procedures, so that maintenance of service quality is a constant effort.

Openness: A safeguard system should deliberately involve clients, parents, interested professionals and community representatives in monitoring service quality. It should involve staff at all levels.

Commitment of Improvement: The stance of the service delivery system must be an eagerness to improve. This involves a willingness to correct problems. By incorporating a variety of safeguards, and by channeling findings to management, a good

system is able to correct problems in a timely way.

Internal Approach: The system must scrutinize and correct its own service problems. Procedural protections and first-line problem solving are two important internal safeguards components.

External Approach: The system must involve outside agencies or organizations in evaluation of all or part of the service system. Regulation and accreditation are two external components.

The key to both of these approaches is an open system in which service delivery involves a wide variety of people in solving problems. Through internal evaluations and systematic communication, first hand knowledge is combined with external objectivity.

INFRASTRUCTURE

The development of a complex and comprehensive community service delivery system requires extensive administrative, programmatic, professional, and support staff if services are to be developed in a timely, efficient and effective manner and if supervision, monitoring, and evaluation is to be done effectively.

Staff must be available to provide the planning, service development, reporting, monitoring, and evaluation requirements contained in this Order of the Court and in all subsequent orders. To insure such staff availability, the State shall take the following action:

1. The Department of Human Services shall within thirty days of entry of Judgment in this case develop plans for the assignment or acquisition of staff to provide the following services:
 - a. Case Managers for all 550 Hissom class members with a ratio of one Case Manager for ten class members

and one supervisor for ten Case Managers. The Department shall develop alternate plans for the development of Case Manager programs. One plan will involve a state organization and the other will maximize the use of contracts with independent contractors. Each plan will provide organizational charts reflecting lines of authority.

- b. Administrative staff to systematically locate other class members.
- c. Case Managers and area professional assessment teams will begin to evaluate and identify needs of other class members within the period of ninety days after entry of Judgment in this case. If estimates of the number of class members are accurate, three to five assessment teams will be required and fifteen to twenty Case Managers will be required.
- d. Staff in the State office to develop plans required by this Order.
- e. Staff in the State office and area office for contracts administration.
- f. Staff in the State office and area office for resource development.
- g. Staff in the State office for developing and implementing a system for program and fiscal audits.
- h. Staff in the State office and area office for

program monitoring and quality assurance programs.

- i. Professional specialists in the State office and area office for development of new program initiatives.
 - j. Administrative staff in the State office and area office for timely processing of client evaluations, plans of care, contracts, billing and processing of applications.
 - k. Staff in the State office and area office for community education and staff/provider training.
 - l. Staff in the State office and area office for development and maintenance of information systems, evaluation systems, and client tracking systems.
2. The Department of Human Services shall secure space, equipment, clerical support, and operational funds for staff activities described above.
 3. The Department of Human Services shall maintain sufficient staff/providers to assure that staffing ratios and service levels are not reduced from projected levels for clients remaining at Hisson.
 4. All staff training and development activities necessary to carry out the Court's Order shall be provided by contract services to insure the expertise requisite to a high quality program.

CASE MANAGEMENT

An active, resourceful and independent Case Manager is the single most important component of the system. Case management is a system in which the responsibility for locating, coordinating and monitoring services needed by the person with mental retardation rests with a designated individual. Specific services and activities of the Case Manager include:

1. Serving as the primary staff advocate for the individual with mental retardation to secure services, assisting in the exercise of rights, choices, and responsibilities, and providing needed support services that enable the individual with mental retardation to engage in independent activity.
2. Linkage of the person with mental retardation with appropriate community resources.
3. Responsibility for ensuring the development, implementation, monitoring, and modification of the IHP through an Interdisciplinary Team process.
4. Serving as chairperson/facilitator for the IDT.
5. Coordination of service providers responsible for furnishing services to the person with mental retardation.
6. Monitoring of services and programs included in the IHP to determine effectiveness as it relates to individual progress as well as determining if the individual's well-being, health and safety are assured.

7. Accessing the IDT to revise or change services and programs as needed or requested by the individual with mental retardation.
3. Providing information, referral, follow-up and periodic services to individuals with mental retardation who may not require specialized services of the service delivery system.

General Principles

1. Case Managers must be independent so that they may be free to advocate for the needs of the individual with mental retardation.
2. Case Managers function in the most fundamental and essential monitoring role because they focus on the total needs, response, and well-being of the person with mental retardation.
3. Case Managers must have the authority to convene Interdisciplinary Team meetings if the needs and desires of the person with mental retardation indicate that changes are needed.
4. Case Managers should live in the same community as the person with mental retardation so as to facilitate quick response to client needs.
5. Case Managers must have the authority to access emergency or specialized intermittent services and be immediately accessible to their clients as the need

arises.

6. Case Managers must have the authority to access or procure services and equipment as specified by the IDT.
7. The Court's view of the appropriate job description for Case Managers is attached as Exhibit "A" to this section.

Court Objectives

The State shall insure the following:

1. Case management services will be provided to class members by either staff of the division of developmental disability services of the Department of Human Services or by contractually employed independent professionals, depending upon the Court's approval of one of the two plans submitted by the State pursuant to the requirements outlined in Infrastructure §1(a), supra. In the event the Case Managers are staff of DHS, these staff will have no other duties and will serve a specific caseload of individuals with mental retardation.
2. Case Managers will be assigned to all 550 class members with a ratio of one Case Manager to ten clients. This ratio may be increased over time, upon approval by the Court, after successful implementation of the Court's Order and development of the initial set of supports and services.

3. The Department of Human Services shall develop policies and procedures that provide the Case Manager with the authority to access emergency services, be on-call and available to clients, and access the IDT when changes in client program and placement may be indicated.

HOME AND COMMUNITY SUPPORTS AND SERVICES

Each person who is the focus of this Order shall, within the time frame outlined, be provided home and family life in the community. Supports and services shall be provided for each person adequate to allow full participation in normal home and community life. The State shall develop and present to the Court, within sixty days of entry of Judgment in this case a plan which will accomplish this section of this Order, consistent with the following principles:

1. Supports and services shall be provided for each adult or child in his/her home to the extent that such are needed to maintain and nurture the individual in home and community. Supports and services shall include but not be limited to:
 - a. Respite as needed;
 - b. In home workers;
 - c. Family training;
 - d. Reasonable architectural modification;
 - e. Behavioral management;
 - f. Family counseling;
 - g. Adaptive and augmentative equipment, prothesis; and
 - h. Transportation assistance.
2. Supports and services shall be no more intensive than is necessary to achieve success. Individuals shall receive

no more support, service or other intervention than is necessary in order to allow the individual to participate in home and community.

3. A person's place of residence is his/her home. The State shall advocate that he/she may not be arbitrarily removed from the home for reasons relating to his/her mental retardation, behavior or medical condition. The only exceptions should be removal for periods of intensive medical or behavioral treatment at which time resources and facilities shall be used which are the same as those used by the general public.
4. Adults shall live with people of their choice. Whenever possible, the building in which adults live shall be either purchased or rented by the persons residing in it.
5. Consistent with normal adult living, no more than six adults shall live together.
6. Individual living planning and home selection shall focus on the individual, his or her home, and affiliation needs, not on any approach which is "facility", "slot", or "bed" based.
7. Given the inherent rights of the self advocate, the parent/guardian, the IDT and all due process rights afforded by law, for children, home shall be the natural family. As is generically true, if the family has received any necessary supports and services but is no longer able to respond to the needs of the minor child

with mental retardation and requests placement outside of the home. there shall be arranged a foster family which shall act in the place of the natural family. In all instances, supports and services shall be equally available. This provision shall be restricted so that foster families may receive no more than three children with mental retardation. That number may be further restricted if the home already has other children. If the home already has other children of a foster or adoptive nature, a full evaluation and review by the IDT will be required prior to placement to insure compatibility and appropriateness.

8. Before an individual moves from his/her home to a more restrictive or less normal environment, the individual's Case Manager shall insure that such more restrictive or less normal environment is required and that the individual has been served but cannot presently be served in the normal home environment. Such subsequent placement plan shall be reviewed and approved initially by the IDT and then by the Court's Representative.
9. The plan shall insure that all providers of home and community supports and services are free from conflict and independently able to respond to the individual's interests in being a part of the community. Providers who through any arrangement are providing service to more than one individual must agree to receive persons of any level of need or involvement. All providers must

agree to not remove a person from home and community supports and services without approval of the IDT.

10. The plan shall include a section on safeguards that will guarantee both internal and external controls and review, including consumer monitoring.
11. The plan shall insure that each person shall benefit from home and community experiences designed to enhance quality of life including normal friendships and affiliations, recreation and leisure activities, and access to the community resources.
12. All determinations relative to home and community living and supports shall be subject to the appropriate due process procedures.
13. The plan shall insure that all Case Managers are free from conflict and independently able to respond to the individual's interest in being a part of the home and community.
14. For purpose of the plan and subsequent service development the Court considers the following to be a sequence from least to most restrictive home settings for an adult: independent living, independent living with in home and family supports, extended family living, adult family (foster) homes, supervised apartment living, supervised small group homes of 2-3 persons and supervised group homes of 4-6 persons.
15. The plan will provide for the State to advocate for the least restrictive, most normal environment for all class

members.

HISSOM SERVICES PENDING CLOSURE

The Court is deeply concerned for persons who will continue to reside at Hissom pending closure. Unfortunately it is reasonable to expect that without intervention persons remaining there will be in greater jeopardy since staff, particularly those with the greatest skill, will leave to seek other employment. This will leave Hissom with an even more greatly diminished ability to respond to the needs of its residents.

Therefore the Court requires that the State take all necessary steps to insure that residents of Hissom receive appropriate habilitation services prior to their movement from Hissom. The Court requires that Hissom residents be guaranteed a safe living environment pending their departure from Hissom.

With regard to Hissom's ongoing personnel needs, the Court orders the State to develop and present within twenty days of entry of Judgment a plan which will insure that the necessary personnel support is maintained so that residents will receive appropriate habilitative services prior to their movement from Hissom. Such plan may include incentive payments for employees who stay at Hissom, arrangements for contracting for professional services with experts, and any other means to insure adequate staffing. Such plan shall also include derivation of maximum benefit from the professionals employed by Progressive Therapeutic Technologies, Inc. and Therapeutic Concepts, as has

been previously directed in this Court's Order of January 1987. Such plan shall address the following:

1. Interdisciplinary teams able to integrate services based on measurable behavioral objectives.
2. An administrative structure which supports the IDT and professional services.
3. Personnel needed to provide effective IDTs.
4. Documentative systems standardized to meet clients' needs.
5. Implementing and monitoring of physical management and positioning programs.
6. Appropriate full day education/day programs for all clients.
7. Medical and health issues which need to be addressed.
8. Providing physical management, positioning and other programmatic and care needs for clients who require hospitalization.

To insure that limited resources are not wasted, the Court directs that, effective the date of this Order, there shall be no further capital construction at Hissom. If the State at any time identifies any capital construction which it feels is required to insure resident safety, it shall file a motion to allow specific capital construction along with evidence substantiating its request, including cost figures.

EMPLOYMENT SERVICES

The Court is cognizant of the radical change which the perception of employment capabilities of persons with severe disabilities has undergone in the past several years. Whereas sheltered workshops and work activity centers were previously considered the only possible place in which to employ people with disabling conditions, now many professionals consider these places the last resort when every other employment option has failed. The Court is similarly cognizant of the 1986 Amendment to the Rehabilitation Act of 1973 (Public Law 99-506) which creates a new formula grant to assist states in developing supported employment options for persons who are unable to function independently in employment without on-going support services for the duration of their employment. Such change in the perception of employment possibilities and the corresponding federal legislation afford Hisson class members substantial

opportunities for meaningful employment in an integrated work setting.

The Court directs that all Hissom class members are to receive prevocational and vocational services commensurate with his/her need. This will necessitate that the State accelerate and perhaps redirect its efforts to create employment options for persons with severe disabilities. The State will have to overcome resistance to employment of such persons based on the conventional arguments that limitations in physical and mental fitness lessen their ability to produce on the job and that employers prefer able-bodied workers, even if disadvantaged, to workers with disabilities. The State will have to engage business in a partnership to create a variety of supported and transitional job options for all Oklahoma citizens with severe disabilities who wish to work. In doing so, the Court directs the State to use the Medicaid waiver budget applicable to the Hissom class to assure that each member receives the kind and amount of prevocational and vocational services which the IDT assessment deems appropriate.

Court Objectives

1. All Hissom class members are to receive prevocational and vocational services commensurate with his/her need.
2. Each IDT assessment will specify the kind and amount of prevocational and vocational services that appear appropriate for the individual class member.

3. Children 14-17 years old are to receive prevocational services as part of their Individual Educational Plan (IEP) if possible; otherwise, Medicaid waiver funds are to be expended to this end.
4. The full array of supported and transitional employment options capable of meeting the needs of Hissom class members with varying levels of disability are to be engineered in recognition that replicable models exist to meet the needs of persons across the entire severity spectrum.
5. Sheltered workshops and work activity centers are to be encouraged and assisted to develop supported and transitional employment options for Hissom class members, with the assistance of the State.
6. The State Vocational Rehabilitation Agency is to be engaged in the development of supported and transitional employment options for Hissom class members in recognition of its responsibilities for doing so pursuant to the 1986 Amendment to the Rehabilitation Act of 1973 (P.L. 99-506).
7. The supported employment definitions and coordinating mechanisms proscribed by the federal regulations governing implementation of the new state formula grant are to be followed to assure not only compliance with the federal law but also cost-effective use of all employment service expenditures on behalf of Hissom class members.

General Principles

1. The IDT assessment should avoid stereotyping the employment capabilities of individuals with severe disabilities and rely instead on state-of-the-art knowledge in this regard.
2. Officials of the State of Oklahoma should set aside sufficient funds to bring in experts and trainers from the university centers (e.g. the University of Oregon, Virginia Commonwealth University, and University of Maryland) that have been established by the U. S. Department of Education to provide technical assistance to states in building supported employment programs.
3. Officials of the State of Oklahoma should place emphasis on coordinating expertise and funding sources as prescribed by the federal regulations governing implementation of the new state supported employment formula grant, taking advantage of the substantial leveraging opportunities that Medicaid waiver funds afford in this regard. Clarification should be sought from the U. S. Departments of Education and Health and Human Services about which dollar will be considered the "first dollar" spent for purposes of obtaining the maximum leverage effect of Medicaid waiver funding.
4. Training efforts at all levels should include orientation to the provisions of the 1985 Amendment to

the Social Security Act, entitled "Economic Opportunities for Disabled Americans Act," which remove the substantial work disincentives that formerly existed in the Supplemental Security Income (SSI) and Medicaid programs. Earnings above the substantial gainful activity (SGA) level of \$300 per month no longer cause loss of SSI and Medicaid benefits.

5. Sheltered workshop and work activity centers should be recognized as having a role to play in creating needed supported and transitional employment options for Hisson class members as well as resources that can be reconfigured over time to embrace more supported and transitional employment options and less sheltered work and work activities.
6. The Specialized Training Program (STP), developed by the University of Oregon, should be recognized not only for its potential to serve persons at the severe and profound levels of disability but for its applicability for transforming the operations of sheltered workshops and work activity centers into a more productive work environment for such persons.
7. Concentration on development of a single kind of employment option for Hisson class members should be avoided in favor of attempts to create the full array of options -- job coaches for competitive employment, shared jobs in the transitional employment program (TEP), the specialized training program (STP), mobile

work crews, sheltered enclaves in industry, etc.

3. By requiring spending on prevocational services for children 14-17 years old, the Court is attempting to avoid the documented problems with federal and state policy in addressing the vocational education needs of persons with disabilities while in school. The failure to provide suitable vocational education to school age persons with disabilities represents an opportunity cost not only for the individual student but also for society which may have to spend more later to make up for the indifference of the past.

9. High priority should be directed toward development of a partnership with the business community to educate and obtain the assistance of not only the leadership but also rank and file workers in creating integrated employment options for persons with severe disabilities, including Hissom class members.

CASE MANAGER - JOB DESCRIPTION

To briefly summarize, a Case Manager performs responsible, professional work involving the planning, coordination, provision and monitoring of services for persons with mental retardation in a variety of community settings. The specific responsibilities include:

1. Establishing a positive relationship with the client and his/her family through regular contact to serve as a client's professional advocate in the agency and the community;
2. Working with referred individuals with mental retardation, the individual's family, and community resources to secure and/or maintain employment and appropriate support services in natural settings so that intake into services is not completed unless investigation clearly determines that generic community services cannot meet the needs of the individuals;
3. Documenting all significant information involving a client by maintaining a client file. Such a file should provide a comprehensive, up-to-date picture of the client's progress and needs and assure compliance with all applicable accrediting and licensing standards;
4. Evaluating of the needs of the client by scheduling, chairing and serving as a team member of the Individual Program Plan (IPP) meeting with all involved persons to

EXHIBIT "A"

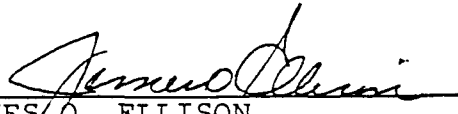
plan for the implementation and coordination of necessary services and support;

5. Serving as a liason between all persons involved with the client to coordinate services and to promote coordination;
6. Attending to medical, mental, psychological and psychiatric needs of the client by identifying those needs, making referrals and scheduling appointments. The Case Manager should also accompany the client as needed in order to work cooperatively with the practitioner and to request the most comprehensive and least restrictive treatment;
7. Monitoring services received by the client through whatever means are necessary to insure implementation of the IPP.
3. Assisting client financially by securing benefits, reporting to funding sources, and aiding with or totally managing client accounts. The Case Manager should also monitor compliance with state and federal regulations to insure that benefits are rightfully received;
9. Securing legal assistance for representation in court, consultation or any service necessary to safeguard the client's legal rights. The Case Manager must maintain ongoing involvement in the judicial process to insure the implementation of an individual's justice plan;
10. Providing training and assistance in daily living needs to those clients who have no programmatic services

available to them;

11. Maintaining an awareness of currently available community services through consistent contact with generic and public agencies to offer and obtain a wide range of services;
12. Performing outreach and intake duties by accepting referrals, analyzing needs and completing the intake process or securing alternative placement as needed to facilitate provision of services and/or supports;
13. Serving as a member of the Behavior Management Team and the Crisis Team;
14. Attending staff meetings, in-service programs and training conferences to maintain awareness of policies and procedures and to improve job performance;
15. Performing duties on call as assigned to attend to client emergencies;
16. Performing other duties as assigned.

DATED this 24th day of July, 1987.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE