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“Jackson” Litigation

Position Statement

The “Jackson” lawsuit successfully served its purpose, resulting in the closure of New Mexico's institutions for persons with developmental disabilities and a positive transition to community life.

Recently, however, providers believed that for the better part of the last decade, the “Jackson” lawsuit outlived its purpose. During that time, interactions between the Plaintiffs, Defendants, and the Court frequently resulted in an exponential growth of unfunded rules and regulations.

Many providers have revised their position regarding the “Jackson” lawsuit. “Jackson” class members have been carved out of the newly revised Developmental Disabilities Home and Community Based Medicaid Waiver program. Unlike non-class members, “Jackson” class members are not part of the new 2012 Developmental Disabilities Medicaid Waiver program and are held harmless from any reduction in services due to their Supports Intensity Scale scores. The new rates for non-“Jackson” Medicaid Waiver participants are significantly lower than rates applied to “Jackson” class members for virtually the same service, yet proscribed staffing requirements are greater for non-“Jackson” participants. The new rates do not cover actual costs and are insufficient to meet 2012 Medicaid Waiver standards. If the new Medicaid Waiver system is fair and defensible, it should apply to all. Operating dual systems of services is a practice many feel is discriminatory.

Therefore, as the State implements changes to Developmental Disability Medicaid Waiver standards, rations services utilizing the Supports Intensity Scale, reduces service packages and, yet again, reduces rates, many providers feel that the “Jackson” lawsuit represents their last significant leverage on the developmental disability service system.

Providers are eliminating services, some are planning to discontinue providing Developmental Disability Medicaid Waiver services and, as for some time, rates have not covered the costs of required infrastructure. Increasing numbers of providers are experiencing compliance issues. We are not able to adequately compensate staff that care for others with great compassion and dedication.

Providers do not want the continued use of resources and the proliferation of demands accompanying the “Jackson” lawsuit. Yet, for the first time ADDCP members do not want the lawsuit to end until there is assurance that both “Jackson” class and non-“Jackson” Developmental Disability Medicaid Waiver participants will receive the same services, under the same standards, at rates adequate to meet all individuals’ needs and the requirements of those service standards.