

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STANLEY LIGAS, ET AL.,)	
)	
Plaintiffs,)	
)	Case No. 05 cv 4331
v.)	
)	Judge Sharon Johnson Coleman
FELICIA NORWOOD, ET AL.,)	
)	
Defendants.)	

ORDER

This case is before the Court on Plaintiffs' and Intervenors' Joint Motion to Enforce Consent Decree and Agreed Order (Docket #602) (the "Motion"). The Court taking into consideration the Consent Decree Order previously entered in this case, the urgency of the plaintiffs and intervenors needs, the unquestioned budget crisis for the State of Illinois. Weighing all these facts the Court makes the following ruling.

- A. The Consent Decree entered in this matter on June 15, 2011 (Docket #549) requires the State of Illinois to fund services for more than 10,000 Illinois residents with developmental disabilities, including those living in Community Integrated Living Arrangement ("CILAs"), those living in Intermediate Care Facilities for the Developmentally Disabled ("ICF-DDs"), those living in Community-Based Settings, and those living at home but in need of Community-Based Services (as these terms are defined in the Consent Decree). The Consent Decree was intended to redress violations of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132, Section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a); and Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396v.
- B. When it became clear that the State of Illinois would not pass a budget appropriation for

the State Fiscal Year beginning on July 1, 2015 ("FY 2016"), the Illinois State Comptroller took the position that she would not continue to make payments necessary to maintain the State's compliance with the Consent Decree unless specifically ordered to do so by the Court.

- C. On June 30, 2015, the Court entered the Agreed Order to Maintain Compliance with Consent Decree (Docket #597) ("Agreed Order"). The Agreed order states: "Until the FY 2016 budget takes effect, the Comptroller shall continue to make all payments for all services, programs and personnel, at a level no less than the levels paid in Fiscal Year 2015, that are necessary to comply with the Consent Decree and Implementation Plan."
- D. Despite the Consent Decree and the Agreed Order, on July 23, 2015, the State of Illinois sent letters to developmental disability service providers informing them that the State will fund services only for Class Members under the Consent Decree and not for any other Individual with Development Disabilities for whom funding is required under the Consent Decree, including Individuals with Developmental Disabilities living in ICF- DDs or CILAs who are not Class Members.
- E. The State's refusal to provide funding for services provided to Individuals with Developmental Disabilities living in ICF-DDs and CILAs, as well as those living at home and receiving Community-Based Services, who are not Class Members, is a violation of the Consent Decree and the Agreed Order.
- F. Providers of services to Individuals with Developmental Disabilities are reliant on the State for funding needed to provide essential services to Individuals with Developmental Disabilities. As a result of the State's failure to provide funding as required by the Consent Decree and Agreed Order, many providers of services to Individuals with

Developmental Disabilities, including Class Members, are in imminent danger of closing. Individuals with Developmental Disabilities are reliant on service providers to meet their daily needs, such as feeding, the administration of essential medications, dressing, toileting, and supervision. If service providers close due to the lack of funding from the State, Individuals with Developmental Disabilities, Class Members and non-Class Members, will have to be moved to unfamiliar and inappropriate settings, assuming such alternative settings even exist. The very individuals the Consent Decree was designed to protect will be unable to obtain services necessary for their health and welfare and will be grievously and irreparably harmed.

- G. Immediate relief is necessary to prevent violations of the Consent Decree, Agreed Order, and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132, Section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a), and Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396v.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Plaintiffs' and Intervenors' Joint Motion to Enforce Consent Decree and Agreed Order is granted.
2. The Illinois State Comptroller shall timely make all payments for all services, programs, and personnel during the State Fiscal Year beginning on July 1, 2015 ("FY 2016"), at a level no less than the levels paid in Fiscal Year 2015, for all Beneficiaries of the Consent Decree (Docket #549) (as "Beneficiaries" are defined in Paragraph 3 of this Order). For payments due for services provided in July 2015 for any and all Beneficiaries of the Consent Decree for which claims have been submitted as of the date of this Order, the State of Illinois shall process and pay all such claims by August 21, 2015. For payments due for services provided in August 2015 for any and all Beneficiaries of the Consent Decree for which claims

are submitted by August 18, the State of Illinois shall process and pay all such claims by September 4, 2015. By September 18, 2015, the State of Illinois should be in total compliance with the Consent Decree.

3. The Defendants will immediately begin processing all Medicaid claims for fiscal year 2016 for services provided to the range of individuals that are the subject of Plaintiffs' and Intervenors' Joint Motion to Enforce Consent Decree, including but not limited to Class Members (as defined in the Consent Decree), Individuals with Developmental Disabilities (as defined in the Consent Decree) who have chosen to reside in Intermediate Care Facilities for the Developmentally Disabled ("ICF-DDs"), Individuals with Developmental Disabilities receiving Community-Based Services (as defined in the Consent Decree), and Individuals with Developmental Disabilities receiving services in Community-Based Settings (as defined in the Consent Decree) throughout the State of Illinois ("Beneficiaries").
4. For all claims submitted on or after September 1, 2015, the Illinois Department of Healthcare and Family Services and the Department of Human Services shall process and the Comptroller shall pay all claims covered by this Order at a level and within the time period that such claims were paid in Fiscal Year 2015. Providers that were paid on an expedited basis during FY 2015 shall be paid on the same expedited basis for services rendered during FY 2016. All other providers shall be paid within sixty days after the end of the month in which services are rendered.
5. On or before August 21, 2015, the Secretary of the Department of Human Services shall issue a letter supplementing his July 23, 2015 letter (Exhibit 3 to the Joint Motion). The letter shall detail the State of Illinois' plan to process and pay all claims for services rendered during FY 2016 to Beneficiaries of the Consent Decree in a manner and at a time consistent with the State of Illinois's obligations under this Order, the Agreed Order (Docket

#602), and the Consent Decree. Attached to this supplemental letter will be a copy of this Order. Defendants shall publish the supplemental letter and Order by (i) posting it on the DHS website, and (ii) transmitting a copy of the letter with this Order to all personnel and to all contractors and providers of services under the Consent Decree, including without limitation any contractors or providers of services that received the July 23 letter or other notice of a possible reduction in payments or the reduction in or termination of a contract as the result of the delays in completing a FY 2016 budget appropriation, via email where available and by such other additional means as the Defendants employ for communications to the foregoing persons and entities in their usual course of business.

6. This Order shall remain in effect until the State enacts a budget for FY 2016 or until further order of this Court.
7. This matter is set for a status hearing on September 9, 2015 at 9:00 a.m. At that time the parties shall report to the Court on the State's compliance with this Order.

Date: August 18, 2015

Entered: 
SHARON JOHNSON COLEMAN
United States District Judge