

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

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| STANLEY LIGAS, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | Case No. 05 cv 4331 |
| v. |) | |
| |) | Judge Sharon Johnson Coleman |
| FELICIA NORWOOD, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

Coming before the Court on the proposed plan for compliance with the Consent Decree submitted by the defendants, officials of Illinois Department of Healthcare and Family Services and the Illinois Department of Human Services. This Court entered an Order on August 18, 2017, finding that defendants were not in substantial compliance with the Consent Decree entered on June 15, 2011. This Court directed defendants to establish a plan for compliance. This Court finds that the proposed plan does not adequately address the shortcomings that the Court identified in its previous Order.

Statement

In its August 18, 2017, Order this Court found that defendants were not in compliance with the Consent Decree by failing to provide the resources of sufficient quality, scope, and variety. This Court acknowledged the State of Illinois' significant budgetary issues in its Order. Although the Illinois legislature passed a budget today, the Court is under no illusion that Illinois' financial difficulties persist.

Defendants' proposed compliance plan contains four major strategies: (1) defendants have started a pilot program to expand the pool of candidates for service providers to seeking to fill open direct support professional ("DSP") positions; (2) defendants have significantly increased funding for DSP wages, amounting to a 14% increase from FY2017 through FY2020; (3) defendants are enhancing and adding to their monitoring of service delivery; (4) working on several additional programmatic changes and enhancements. The Court finds that this is a good faith effort and a

reasonable start, but doubts that the proposal is adequate to address the issue of wages, staffing, and retention.

At the April 4, 2018, hearing on this matter the Court expressed uncertainty over the defendants' pilot project to expand the pool of potential candidates by coordinating with the Division of Family and Community Services to recruit able-bodied adults with no dependents who receive public assistance benefits from the Temporary Assistance for Needy Families ("TANF") and Supplemental Nutrition Assistance Program ("SNAP"). It is unclear that this pilot program will expand the candidate pool at all. It is also unclear to this Court whether it will address the corollary problem of retention of well-qualified employees when the wages continue to remain low.

Defendants' plan for wages falls woefully short, amounting only to a \$0.38 per hour per year increase for between FY2017 and FY2020. Defendants acknowledged that their proposal is particularly inadequate for DSPs working in Chicago, who will need a greater increase to keep pace with the minimum wage increases passed by the Chicago City Council. As both the Court Monitor and the plaintiffs point out, defendants have not always viewed DSP as a minimum wage job. Historically, DSPs were paid twice the minimum wage. It may not be feasible for the State to raise wage rates to that level, but this Court hesitates to affirm the devaluing of the role of caregivers for some of the more vulnerable members of our society. At the same time, this Court is not in the position to act as super-legislator by dictating how the State should allocate funds and administer its budget.

One of the criticisms of the defendants' proposal levied by the Court Monitor is that the proposal is too short-sighted and does not have a long-term plan. This Court agrees. However, it has been nearly seven years since the entry of the Consent Decree and this Court sees no end to the Court's oversight. For the defendants to truly comply and provide adequate services, the parties and stakeholders will have to come together to formulate a long-term plan to address these issues.

This Court believes that convening a work group that includes the Monitor and other independent stakeholders to study the wage rates for DSPs, the funding methodology for CILAs and ICFs for individuals with Intellectual and Developmental Disabilities, and develop a monitoring tool to assess adequacy of services, funding, and administration. Ideally the monitoring tool would include an independent review component. The Court also takes the Court Monitor's recommendation that the parties pursue expeditiously their discussion for developing the criteria for moving individuals from the Prioritization for Urgency of Need for Services ("PUNS") waiting list at a reasonable pace.

This Court concludes that ultimately it must be the parties that develop adequate solutions to the problems at issue. This Court lacks the expertise and the budgetary authority to impose measures to resolve the issues here. The Court directs the parties to continue to develop a plan to address the issues causing the reduction in services and to bring the State into substantial compliance.

IT IS SO ORDERED.

ENTERED:

Dated: 6/6/18

A handwritten signature in black ink, appearing to read "Sharon Johnson Coleman", written over a horizontal line.

SHARON JOHNSON COLEMAN
United States District Judge