

October 5, 2012



Speaking out for people with intellectual and developmental disabilities

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VOR is a national organization that advocates for high quality care and human rights for people with intellectual and developmental disabilities

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Quotable by Anthony Robbins

State News

- 1. Virginia Update: Amended Consent Decree approved; some protections afforded to training center residents**

On August 23, 2012, U.S. District Court Judge John Gibney [approved](#) an amended consent decree between the U.S. Department of Justice and Commonwealth of Virginia. Despite claims to the

contrary, the Consent Decree does not require the closure of the Training Centers.

Rather, the consent decree, as approved with amendments, expressly recognizes that the decision to close centers (or not) lies with the General Assembly, not with the Commissioner of the Virginia Department of Behavioral Health and Developmental Services (DBHDS).

“Nothing in the decree compels Virginia to close any facility. Decisions of that sort lie in the hands of the General Assembly. If it deems it wise, the General Assembly can appropriate funds to continue to operate some or all of the Training Centers, even while funding the Medicaid waivers. The Court recognizes that the Virginia Department of Behavioral Health and Developmental Services is trying to move away from a care model with Training Centers, but the ultimate decision whether to close any Training Center lies not with the Department, but with the legislature.” Order Approving the Consent Decree, August 23, 2012, pp. 8-9.

The General Assembly has not authorized the closing of any Training Center.

The approved order also includes language to protect the residents’ legal right to choose to continue to receive “Training Center” (ICF/MR) supports. Citing Virginia law, he stated that “no one may be forced to leave a Training Center against his or her will . . . The [Virginia] statute serves as bedrock assurance that no one will be evicted from a Training Center.” If this code is repealed – something the Commonwealth has signaled it will attempt – Judge Gibney may “reopen the case” and “revisit the fairness of the decree.”

While approving the amended consent decree, Judge Gibney dismissed the Intervenor’s (families) Third Party Complaint. The [Intervenors' complaint](#) alleged that actions by the Commonwealth that “seek to compel Intervenors’ discharge from the Training Centers to other settings, including non-ICF/MR certified settings,” without consent and contrary to the recommendations by treating professionals violate several federal laws. In dismissing the Complaint, Judge Gibney found that the Complaint was not ripe because “[n]o one has been involuntarily removed from a state facility. Whatever injury the Intervenors might suffer simply has not occurred yet.” He also

found that "the claim is based on a misreading of the settlement agreement," which "does not does not compel the shutdown of any Training Center." Even so, the Judge also acknowledged that is "unlikely that the Commonwealth can afford to operate five Training Centers while funding the Medicaid waivers."

Throughout this litigation, families have endeavored to offer the Court valid cost estimates to demonstrate the cost effectiveness of training center supports and the fallacy in the Commonwealth's cost assumptions associated with waivers costs and expected savings.

2. Illinois: JDC backers take on Quinn with ad attack

***Journal Courier* * September 30, 2012**

A group that vows to keep fighting Gov. Pat Quinn's decision to close a Jacksonville center for those with disabilities is today firing its most-public salvo yet, right in Quinn's back yard.

In an advertisement scheduled to appear in today's State Journal-Register, the Committee to Protect the Residents of the Jacksonville Developmental Center tells Quinn: "Shame on you ... for creating a chaotic and potentially dangerous situation" at the Jacksonville Developmental Center.

[Read more](#)

3. U.S.: Concerns Raised Over Independent Living Centers

[Disability Scoop](#) * September 28, 2012

Oversight of the nation's Centers for Independent Living is severely lacking, a new audit finds, calling into question how effective the centers are at helping people with disabilities integrate into the community. In a [report](#) from the U.S. Department of Education's Office of Inspector General, officials found that the agency's Rehabilitation Services Administration is doing far too little to assess the effectiveness of the independent living centers it oversees across the country.

The Centers for Independent Living provide information and referral services, training to help those with special needs live independently, peer counseling and advocacy services. As of 2010, there were 337 federally-funded centers across the country, all of which are run predominantly by people with

disabilities themselves.

Between October 2007 and September 2010, investigators found that the Rehabilitation Services Administration conducted just 40 onsite reviews, a fraction of the 153 that are mandated under the law. What's more, the report found that the locations selected for the reviews were not chosen randomly as required.

More problems were uncovered when the inspector general selected 12 independent living centers in 11 states to assess. While each location provided all of the services required, investigators found that poor record keeping permeated centers, with inconsistent reports on funding and how many consumers were served.

"As a result of the inadequate monitoring and oversight, partially supported performance reports and inadequately documented files, (the Rehabilitation Services Administration) did not have sufficient, accurate information to provide required oversight of the grant programs at the CILs reviewed," the inspector general wrote. "Appropriate oversight is essential to ensuring that the program goals are met." Officials at the Rehabilitation Services Administration acknowledged the problems and told the inspector general that staffing and funding issues make it "extremely difficult" to review the growing number of Centers for Independent Living.

4. California: Brown signs bills on developmental center resident protections

***The Bay Citizen* * September 28, 2012**

Gov. Jerry Brown signed two bills yesterday to require California's developmental centers to alert outside police and a disability protection organization when patients die under suspicious circumstances, are abused or are seriously injured.

[Read More](#)

[Read VOR's position in support of this legislation](#)

5. Utah: Desperate parents surrender autistic children to state custody

***Salt Lake Tribune* * September 29, 2012**

Families who can't afford mental health care, behavioral therapy, other services for their autistic kids. and whose disorders private insurance won't

cover, are giving them up to the state. State custody, the report pointed out, makes these children eligible for Medicaid, which covers more extensive therapy than private insurance typically allows.

[Read more](#)

6. New York: Congressional report faults New York Medicaid Rate

***Associated Press* * September 21, 2012**

New York's residential centers for the developmentally disabled cost Medicaid about \$1.9 million a year for each patient, and federal overpayments that total \$15 billion since 1990 should end immediately, according to a congressional oversight committee.

In a report this week, the House Committee on Oversight and Government Reform said the overpayments represent "massive waste," are likely illegal and should stop immediately. The report also faulted lax oversight.

New York officials on Friday called the subcommittee report misleading and called the \$15 billion total "misleading," but said the decades-old reimbursement rates should have changed several years ago and have been the subject to talks for months.

Based on formulas designed to help deinstitutionalize patients - down to 1,169 now at five institutions across New York from about 17,000 - they said the money also funds community-based programs for many of the state's 100,000 developmentally disabled. The state is closing two other residential centers.

At a hearing Thursday, CMS Deputy Director Penny Thompson told lawmakers they could expect to see a reimbursement rate that's about one-fifth of the current level. She did not specify when. CMS officials had told the panel earlier they were negotiating with New York's health officials.

7. U.S. HHS Finds "Questionable Billings" by Community Mental Health Centers

Medicare outpatient community mental health centers located in states with little or no oversight accounted for at least 90% of more than \$200 million in "questionable" billings in 2010, according to a [report](#) released Tuesday by HHS' Office of Inspector General, [USA Today](#) reports.

[Read more](#)

Quotable

"Identify your problems but give your power and energy to solutions." ~ Anthony Robbins

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