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DISABILITY LAW COLORADO FILES ACTION TODAY IN FEDERAL COURT AGAINST THE COLORADO DEPARTMENT OF HUMAN SERVICES AND THE COLORADO STATE MENTAL HEALTH HOSPITAL IN PUEBLO FOR ALLOWING PERSONS WITH SERIOUS MENTAL ILLNESS TO LANGUISH ONCE AGAIN IN COLORADO JAILS WITHOUT EVALUATION OR TREATMENT IN BREACH OF A LANDMARK TEN-YEAR SETTLEMENT AGREEMENT

DENVER, OCTOBER 28, 2015 — In 2012, the Colorado Department of Human Services (the “Department”) and the Legal Center for People with Disabilities and Older People (“The Legal Center”), now, Disability Law Colorado, Colorado’s Protection and Advocacy System settled a federal lawsuit brought by the then Legal Center to address chronic delays in the system for providing court-ordered competency evaluations and restorative treatment to pretrial detainees. The lawsuit alleged that pretrial detainees were languishing in county jails across Colorado suffering unconstitutional delays, in some cases lasting as long as six months, in receiving evaluations and treatment that would enable them to participate in their criminal proceedings.

Under the terms of the settlement agreement:

1. The Department is required to admit a pretrial detainee to the Colorado Mental Health Institute at Pueblo (“CMHIP”) within 28 days of the court determining the need for an evaluation or restorative treatment.



2. The Department is required to maintain a monthly average of no more than 24 days for all patients to be admitted to CMHIP for evaluation or treatment.
3. Competency evaluations performed in county jails must be completed within 30 days.
4. For the 10-year duration of the agreement, the Department must provide monthly reports to the Legal Center to ensure the Department's compliance. The agreement provides that its duration may be shortened if the Department remains in full compliance.
5. The parties agreed that the United States District Court for the District of Colorado would retain jurisdiction to enforce the Agreement. In the event the Department fails to meet its obligations, the federal court can hold the Department in contempt.

Three years after the parties signed the agreement, the State is once again in a crisis situation, holding up to 100 pre-trial detainees in jails across the state significantly past the agreed upon timelines, waiting for beds at CMHIP for competency evaluations and to be restored to competency. Since at least May, 2015, up to 80 individuals appear to be waiting far beyond the 24 days agreed upon in 2012, and instead up to almost 90 days. Now there may be 100 or more waiting – and being warehoused in jails across the state.

The Department did not notify the Plaintiffs in its mandatory monthly monitoring briefings of this crisis, and has been supplying Plaintiff's with incorrect data. However, Plaintiff's Counsel recently discovered the discrepancies dating to at least May 2015, immediately initiated contact with Department's counsel.

Now, with no end in sight, Attorneys filed a Motion to Reopen the Case and Enforce the Settlement Agreement in Federal Court. They attorney's ask the Court to order the State to comply with the settlement agreement that they allege has been extensively breached.



As the motion to reinforce the agreement alleges, the people of Colorado waiting are suffering greatly under the inadequate ability of the county jails to properly treat and manage individuals with serious mental health impairments

“We must find some real solutions in the State of Colorado and in our country to once and for all eradicate the criminalization of persons with mental impairments. Real solutions are both financial and a re-creation of a real, community based mental health system. If we don’t, the Department will continue struggle with this problem for decades.” Iris Eytan, attorney for Eytan Nielsen LLC

“However, before a long term fix is instituted, numerous pre-trial detainees’ constitutional rights are being violated and this must be resolved in the immediate future. An agreement that was made in good faith must be protected for all Coloradans with serious mental illness.” Jason Lynch, attorney for Davis Graham & Stubbs LLP.

“It’s unfortunate that we were provided incorrect data months ago when we could have assisted the Department in minimizing the deleterious effects caused to the people with serious mental illness who have a fundamental right to treatment and restoration in a reasonable time frame. The State should not be surprised by another long wait list, as they have not done much to get ahead of the longstanding problem going back decades of staffing shortages and an increase in referrals.” Mark Ivandick, Managing Attorney for Disability Law Colorado.

The lawsuit was originally filed in the United States District Court for the District of Colorado, No. 11-cv-02285-BNB (D. Colo.).

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