

DISABILITY LAW COLORADO SETTLES SUIT TO PROTECT INMATES WITH MENTAL ILLNESS

STATE DEPARTMENT OF HUMAN SERVICES SETTLES CHARGES THAT IT VIOLATED THE CONSTITUTIONAL RIGHTS OF INMATES OVER DELAYED ADMISSIONS FOR COMPETENCY EVALUATIONS

DENVER, Aug. 12, 2016 / PRNewswire / - Disability Law Colorado (www.disabilitylawco.org) settled a federal lawsuit that charged the state of Colorado with violating the constitutional rights of inmates with disabilities.

The Colorado Department of Human Services, the state agency charged with conducting competency evaluations ordered by criminal courts throughout the state, has settled a federal lawsuit filed by Disability Law Colorado charging the state with constitutional violations for delayed admissions to its forensic psychiatric institute at Colorado Mental Health Institute at Pueblo (CMHIP).

This marks the second time since 2011 that Disability Law Colorado has sued the State over delayed admissions of inmates, who are presumptively innocent, and who have languished in county jails without appropriate mental health services, often in dangerous and debilitating conditions, for months on end waiting for admission to the state hospital.

The first federal lawsuit resulted in a settlement agreement in 2012, that among other things, called for the Department to file monthly reports with Disability Law Colorado, who took on a monitoring role to ensure the State met its agreed upon admissions deadlines, the most important of which was a 28-day admissions deadline for inpatient competency evaluations. The state managed to timely admit pretrial detainees for the first two years under the initial settlement agreement.

In 2015, without consulting with Disability Law Colorado, the Department changed its admissions policy to CMHIP, limiting admissions and thus producing a waitlist or backlog of approximately 100 inmates. This was a breach of the settlement agreement. In support of its decision to limit admissions, the Department claimed two unanticipated special circumstances existed to excuse its breach; (1) staffing shortages; and (2) a spike in the number of referrals.

Instead of working with DLC, the Department tried to cover up its breach of the settlement agreement by submitting inaccurate reports to DLC that indicated it was meeting the 28-day admissions deadline. However, DLC discovered the problem and began investigating the situation when it started receiving complaints from detainees' families and their attorneys who were being told by jail staff that it will be months before admission to CMHIP.

DLC declined to accept the Department's excuses, citing a 20-plus-year history of systemic failures to adequately plan for these very circumstances. Events indicative of poor planning are the 2002 settlement in the *Neiberger* federal lawsuit, wherein the Department agreed to fill vacant staff positions with permanent employees and committed to maintaining future staffing ratios at levels to avoid understaffing. Four years later, in the *Zuniga* case, the department had to answer a contempt citation issued by Denver District Judge Engelhoff for its failure to timely admit pretrial detainees for competency evaluations and restorative mental health treatment, wherein the Department blamed staffing shortages and increased numbers of court referrals as the cause for the delays. The *Zuniga* settlement agreement expired in 2009 by design with the opening of the 200+ bed Robert Hawkins high security forensic institute on the CMHIP campus. However, the Hawkins forensic institute was never properly staffed to accept the increasing volume of court referrals. As a result, another backlog developed in 2011, which caused Disability Law Colorado to file the initial federal lawsuit, producing the 2012 settlement agreement.

As a result of Disability Law Colorado's most recent lawsuit, the Department will be under the scrutiny of an independent consultant for at least the next two-and-a-half years. The consultant will have access to the Department's operations and will participate in quarterly meetings designed to keep the Department on track.

The question is how long will the Department maintain compliance this time?

Disability Law Colorado is the state's designated protection and advocacy system for individuals with disabilities. See its website at www.disabilitylawco.org

Founded in 1976, Disability Law Colorado protects and promotes the rights of people with disabilities and older people in Colorado through direct legal representation, advocacy, education and legislative analysis.

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