



Update on the *Ligas* Consent Decree – community services for people with I/DD

**Presentation to: Arc of IL,
Family Support Network and
Ligas Family Advocate Program
March 23, 2023**

**Barry Taylor
Equip for Equality
312-895-7317
barryt@equipforequality.org**



Ligas v. Maram

Case Background

- Suit filed in 2005 by 9 individuals with DD
- Nearly 6000 people living in large private ICFDDs (9 or more) and thousands more living at home “at risk of institutionalization”
- Suit does not cover DD State-Ops or kids
- Suit sought meaningful choices not institutional closure
- Attorneys: Equip for Equality, Access Living, ACLU and Dentons (pro bono)



Ligas v. Maram

Case Background

- In 2006, court granted class certification
- In 2008, Agreement reached with State
- Objections from guardians of people in institutions led to de-certification of class and rejection of agreement by judge
- New agreement reached with Intervenors that everyone could support
- Court certified new “opt in” class
- Consent Decree approved in 2011



Terms of *Ligas* Consent Decree: Who's Covered?

- **Class Definition:**

- 18 or older with DD and Medicaid eligible; and
- Lives in a private ICF/DD with 9 or more residents **or** lives in the family home seeking services; and
- The State of Illinois has a “current record” of the person seeking Community-Based Services or placement in a Community-Based Setting



Terms of *Ligas* Consent Decree: Enforcement and Resources

- Consent Decree – not a settlement
- Development of Community Capacity
- Resources and Budget Requests
 - Annual budget requests sufficient to develop and maintain services outlined in Decree
 - Implement funding mechanisms that facilitate transition among service settings
 - **No** legislative contingency



Terms of *Ligas* Consent Decree: ICF-DD Residents

- People residing in ICF-DDs at the time of the entry of the Decree (6/15/11) who desire community placement will receive an individualized, independent evaluation.
- Over 6 year period, any of the approximately 6,000 ICF-DD residents who desire placement in the community would transition to the most integrated community-based setting appropriate for their individual needs.
- 1/3 placed by the State every two years



Terms of *Ligas* Consent Decree: ICF-DD Residents

- All ICF-DD residents happy with their current placement are not in the class and would not be required to move.
- The Consent Decree ensures that resources necessary to meet the needs of those who choose to continue to reside in ICF-DDs will be made available.



Terms of *Ligas* Consent Decree: People Living in the Family Home

- **For people with DD living at home:**
 - At least 1000 people provided community services within first 2 years
 - At least 500 people provided community services in each of the 3rd, 4th, 5th and 6th years
 - State met these quantitative requirements
 - After 6th year, people not served will move off waiting list at a “reasonable pace”
- State recently adopted process for people to move within waiver (can now move from HSP to CILA without waiting on PUNS list)



Terms of *Ligas* Consent Decree: Crisis

- State agreed to also serve people in “**Crisis**”
 - Imminent risk of abuse or neglect
 - Imminent risk of homelessness
 - Caregiver is deceased
 - Caregiver unable to meet needs of individual jeopardizing individual’s health and safety
 - Individual’s behaviors put individual or family member at risk of serious harm
- No limit on # of people in Crisis to be served
- Crisis services –“expeditiously” – within 24-72 hours



Terms of *Ligas* Consent Decree: Independent Monitor

- Must be independent and knowledgeable of I/DD community service issues
- Assesses compliance with Decree and develops measurable standards for compliance
- Tries to resolve issues, but can recommend action by court if unable to resolve
- Submits annual reports to the Judge
- Tony Records (2011-2015)
- Ronnie Cohn (2015 – present)



Current Status of *Ligas v. Eagleson* Consent Decree

- Over 12,000 class members have received community based services through 2022 (includes people moving from ICF/DDs to community, people living at home waiting for services, and people served via Crisis)
- Court Monitor has found State out of compliance since 2016 for failing to meet the qualitative requirements of the Consent Decree – including inadequate DSP wages to support class members and beneficiaries



Current Status of *Ligas* Consent Decree

- April 2017: Plaintiffs and Intervenors filed a Motion to Enforce the Consent Decree
- August 2017: Judge grants Motion and finds State is out of Compliance with the Decree – Orders State to develop Compliance Plan
- March 2018: State submits Compliance Plan that includes small DSP wage increase; Plaintiffs, Intervenors and Monitor oppose
- April 2018: Judge rejects State's Plan and orders State to address overall rate structure



Current Status of *Ligas* Consent Decree

- August 2018 – State establishes Rates Oversight Committee to review rates and other barriers for people with I/DD
- Sub-Committees: staffing, employment/training, assistive technology, behavioral health, nursing/medical, transportation and ICFDDs
- Rates Oversight Committee [Final Report](#) Issued 11/19



Current Status of *Ligas* Consent Decree

- State hires rate expert (Navigant/Guidehouse)
- Expert's rate restructuring recommendations issued 12/20 ([Guidehouse Report](#))
- Guidehouse Report recommended implementation over a 5-year period
- State adopted plan to implement recommendations over a 6-year period
- Currently in Year 3 of implementation



What's Next in the *Ligas* Consent Decree – Reasonable Pace

- Consent Decree required that after first 6 years, State must continue to provide community services at a **reasonable pace** for 3 consecutive years
- State agreed to serve at least 600 people off PUNS in FY 20 and at least 630 people each year for next 4 years (FY 21-25)
- State reports it met reasonable pace for 1st 3 years
- By FY 24, State on pace to provide community services in no less than 48 months –if someone is on PUNS seeking services at age 18, they would get services when leaving high school at 22



Current Issues of Concern

- Insufficient community services for class members with
 - higher behavioral needs;
 - higher medical needs;
 - wheelchair users; and
 - deaf and hard of hearing
- Some class members in Crisis going into SODCs
 - Percentage of SODC placements increasing (including admissions to Choate)
 - Dispute over who are class members and who wants to leave
 - Class counsel: violation of ADA and Medicaid
 - Judge ordered parties to meet with Magistrate Judge to develop a plan to address issue



Current Issues of Concern

- Quality of services:
 - Concerns about quality of services based on Monitor's review finding State out of compliance in 17 out of 17 quality measures
 - Subsequent plans of corrections demonstrated continued problems
 - Monitor currently conducting a review in collaboration with the State to be completed this fiscal year



Current Issues of Concern

- Termination of Consent Decree
 - Decree requires “**substantial compliance**” and a showing that the State has “**implemented and maintained** a system that complies with the Decree”
 - Judge rejected State’s proposed “Exit Plan” to end the decree by 6/30/23
 - Proposed plan was not tied to any quality measures or outcomes, nor Judge’s and Monitor’s findings of non-compliance
 - Monitor’s quality review this fiscal year will help guide next steps on possible exit plan



Update on the *Ligas* Consent Decree

QUESTIONS?