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California's protection and advocacy system

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FEDERAL LAWSUIT FILED TO STOP CUTS IN HOMECARE TO 130,000 CALIFORNIANS

Seniors, people with disabilities who rely on IHSS Services face a humanitarian disaster, say advocates

San Francisco – Advocates for seniors and people with disabilities today filed suit in federal court in Oakland to prevent impending cuts in the “In-Home Supportive Services” program, known as IHSS. The class action lawsuit is filed on behalf of four low-income Californians who need IHSS to remain safely at home. The plaintiffs include two children with disabilities who need special care, an 81 year old senior who needs IHSS to remain in her apartment, and a young man with autism and bi-polar disorder whose IHSS provider assists him with basic tasks.

The cuts in IHSS services are scheduled to take effect November 1, 2009. At least 40,000 people will lose services entirely and an additional 97,000 will have their services cut sharply. Among the services to be cut are help with cooking, food shopping, cleaning and assistance to medical appointments – cost-effective services which frail seniors and those with disabilities depend on to avoid more costly placement in institutions such as nursing homes.

The plaintiffs in the lawsuit will ask the federal court to issue an injunction to stop the IHSS cuts and avert what Margaret Baran, executive director of the San Francisco IHSS Consortium, said will be a “humanitarian disaster.” Other local officials predict that cutting services to this many people will flood emergency rooms and Adult Protective Service. Evie Goldberg, a Los Angeles social worker

for 30 years, summarized her experience starkly: “People who are nourished by IHSS, particularly when frail and older, live longer. Those without it don’t live as long.”

Experts point out that the planned cutbacks will not save the State money in the long run. “It is less costly to care for people at home. A 2006 study showed that the average... public expenditure on home...based (Medicaid) services is \$44,000 less than for a person receiving institutional services,” stated Mitch LaPlante, leading disability researcher, University of California at San Francisco, in court papers.

The lawsuit alleges that the IHSS cutbacks will violate the federal constitutional due process protections, the Medicaid Act, and the Americans with Disabilities Act. “The purpose of the ADA is to eliminate discrimination against people with disabilities and these cuts will result in increased segregation and diminution of rights,” asserted Paula Pearlman, executive director of the Disability Rights Legal Center.

“The proposed cuts are especially biased against people with mental illness, developmental disabilities and traumatic brain injury, who may need help just as much as people with physical disabilities,” said Melinda Bird of Disability Rights California, lead counsel in the case.

The lawsuit was filed by Disability Rights California, Disability Rights Legal Center, National Senior Citizens Law Center, the National Health Law Program and San Diego attorney Charles Wolfinger on behalf of the IHSS recipients. The law firm of Altshuler Berzon LLP is also counsel in the lawsuit, representing unions including five SEIU locals and United Domestic Workers-AFSCME, whose members are IHSS caregivers and attendants.

An October 1 press conference featured a case summary by Melinda Bird, and the expert opinions of Lee Collins, director of the San Luis Obispo Department of Social Services; Donna Calame, executive director of the San Francisco IHSS Public Authority; and Ann Guerra, executive director of the Nevada-Sierra Regional IHSS Public Authority.

The complaint in this case, *V.L., by and through his guardian ad litem Nancy Lagahid, et al. v. John A. Wagner, Director of the California Department of Social Services, et al.* and associated declarations and other information will be posted on Disability Rights California’s website as soon as they are available:

www.disabilityrightsca.org.

