



EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

April 16, 2024

CONTACT:

Cecille Joan Avila, EOHHS | (857) 301-0508

Molly McGlynn, Attorney General's Office | (617) 727-2543

Agreement Reached in Class Action Lawsuit to Expand Opportunities for Individuals in Nursing Homes to Return to Community

Settlement invests in new housing opportunities and community-based programs for older adults and persons with physical disabilities or mental illness

BOSTON – Today, the Executive Office of Health and Human Services announced a settlement that has been reached in a class action lawsuit that expands opportunities for individuals in nursing facilities, including the plaintiffs and thousands of people like them (“class members”), to receive the services they need to live in their communities of choice. The agreement, subject to court approval, continues the Healey-Driscoll administration’s focus on expanding access to community-based services as an alternative to facility-based care.

The lawsuit, known as *Marsters v. Healey*, was originally filed in October 2022 in the U.S. District Court for the District of Massachusetts against the Commonwealth by six individuals with disabilities living in nursing facilities who were unable to return to the community without additional support from the state. Under the proposed settlement, the state will expand funding for housing programs to assist individuals in nursing facilities who seek to return to the community, including the creation of rental vouchers specifically designated for persons with disabilities who want to transition to the community, as well as the creation of new residential settings.

“This settlement is a natural next step forward as our administration expands community living options available for individuals residing in nursing facilities,” said **Governor Maura Healey**.

“We continue to look for opportunities to reduce disparities and inequities for older adults and individuals with disabilities and mental illness in Massachusetts.”

“Massachusetts has a strong history of providing a robust set of home and community-based services aimed at rebalancing services away from facilities and toward community settings,” said **Lieutenant Governor Kim Driscoll**. “Our administration is committed to expanding access to housing options so that more older adults and individuals with disabilities and mental illness are served in the most appropriate and least restrictive settings.”

“I am grateful for the hard work of my team for working with the administration and advocates to reach this settlement that will certainly empower older adults and individuals with disabilities and mental illness to receive appropriate care while living in the community, instead of in a nursing facility. We look forward to continuing to work with the Healey-Driscoll administration to ensure all people in Massachusetts can live with dignity and respect,” said **Attorney General Andrea Joy Campbell**.

The Commonwealth has also designated teams who will engage with nursing facility residents and help them make an informed choice about opportunities to receive services in the community. Nursing facility residents with mental illness will receive enhanced care coordination while they are in the nursing facility to ensure they receive needed specialized services so they can be discharged from the nursing facility as soon as possible. Through these initiatives, the state has committed to identifying and supporting the transition of at least 2,400 individuals from a nursing facility to the community over the next eight years.

“The Executive Office of Health and Human Services understands how important it is for people in nursing facilities who are interested in returning to their communities get the support they need to be able to do so,” said **Secretary of Health and Human Services Kate Walsh**. “Whether that means helping people find and access appropriate community-based care or housing opportunities, we want everyone to feel empowered in making their own most informed decision.”

“MassHealth is committed to facilitating the transition of our members back to their communities of choice. Our objective is and always has been to provide comprehensive access to care in the least restrictive setting,” said **Assistant Secretary for MassHealth Mike Levine**. “Ensuring that members are supported with resources and guidance through this process is a top priority.”

Representatives for the plaintiffs in this case said the agreement reached will provide a new path for older adults and individuals with disabilities.

“For thousands of people with disabilities who are segregated in nursing facilities, the Agreement will provide them a new home and services in the community, so they can be near their families and friends,” said **Steven Schwartz, special counsel with the Center for Public Representation**. “This is what the law requires and what everyone deserves.”

“This Agreement provides robust racially and ethnically inclusive transition services and real community options for older adults and others – a great result and a blueprint for other states,” said **Regan Bailey, Litigation Director for Justice in Aging.**

“Although tragically, the first plaintiff, John Simmons, died in a nursing facility awaiting to leave, the Agreement will allow thousands of others to realize this dream,” said **Deborah Filler, senior attorney at Greater Boston Legal Services.**

“We appreciate that this litigation was able to serve as the beginning of a very productive collaboration between the Commonwealth and our public interest partners in implementing this Agreement,” said **Kristyn DeFilipp, Litigation Department Chair at Foley Hoag.** “Through this cooperative effort, we are proud to be part of the team that will ultimately lead to a transformative solution for people with disabilities.”

Some of the original plaintiffs shared their enthusiastic reaction to the settlement.

“After leaving Jamaica 20 years ago, I lived independently in my own apartment, was connected to my children, and enjoyed cooking and caring for others. But for the past two years, I have been confined to a nursing facility where I can’t do anything for myself,” said **Lorraine Simpson.** “I can’t be with my family and am totally dependent on others to decide what I must do every day. But soon, because of the Agreement, I will have a new home in the community near my family and friends. I can’t wait to take care of my own home, spend time with my family, and cook for them again.”

“For decades I lived an independent life. I held a job and am an honorably discharged U.S. Army veteran. For me, living in a nursing home is like living under martial law. I am determined to return to the community and pray the Agreement will get me a new home so I can leave here,” said **Richard Caouette.**

Today’s settlement builds on the state’s long history of supporting community-based care as an alternative to facility-based care and reflects the Healey-Driscoll Administration’s commitment to expanding services that support Massachusetts residents’ ability to live in the community regardless of age, physical disability, or mental illness. The Executive Office of Health and Human Services currently spends more than \$5.8 billion through MassHealth and HCBS waivers annually on long term services and supports in the community. Examples of these supports include personal care, home health, and day programs. The settlement represents a substantial new investment in housing opportunities and community supports, with projected investments of over \$1 billion over the course of the settlement. In calendar year 2023, 73.3 percent of Massachusetts spending on long term services and supports was on home and community-based services versus institutional services.

Additional community-based programs and initiatives implemented by the Commonwealth include:

- [The investment of \\$1.1 billion in funds available through the American Rescue Plan Act to strengthen, enhance, and expand home and community-based services.](#)
- Renewing the MassHealth [Money Follows the Person Demonstration](#), which is designed to identify and support the transition of individuals in nursing facilities to community-based settings.
- Increasing the capacity of the MassHealth [Moving Forward Plan waivers](#) that provide supportive services in group homes or in a person's own home for persons who would otherwise require services in a facility-based setting.

Contact Information for Plaintiffs:

Center for Public Representation

Steven J. Schwartz, Esq.

sschwartz@cpr-ma.org

617-285-4666

For more information on CPR, see <https://www.centerforpublicrep.org/>

Foley Hoag

Brian C. Dygon

Senior Communications Manager

bdygon@foleyhoag.com

617-832-7127

For more information on Foley Hoag, see <https://foleyhoag.com/>

Greater Boston Legal Services

Deborah Filler, Esq.

dfiller@gbls.org

617-603-2716

For more information on GBLS, see <https://www.gbls.org/>

Justice in Aging

Vanessa Barrington

Director of Communications & Individual Giving

vbarrington@justiceinaging.org

O: 510-256-1200 C: 415-505-0116

For more information on JIA, see <https://justiceinaging.org/>

###