

## ***BALL V. DEWINE* UPDATE - JANUARY 2020**

In March of 2016, Disability Rights Ohio (DRO) filed a class-action lawsuit against the state on behalf of individuals with developmental disabilities who were unnecessarily segregated or at risk of segregation. The suit was aimed at expanding access to community-based supports for those who want them. Our reasons for filing this lawsuit were based on the following facts:

- The Americans with Disabilities Act (ADA) and the Supreme Court Olmstead Decision provide people with disabilities a legal right to community-based, integrated services.
- For many years before this lawsuit, individuals in institutional settings called Intermediate Care Facilities (ICFs) had almost no options to access community-based supports.
- And, Ohioans who asked to be moved out of an ICF and into the community with the supports they needed, waited an average of 13 years to receive the community-based Medicaid waiver they needed to do so.

In 2018, the Court certified a class of individuals who, after receiving options counseling, express an interest in community-based supports. DRO and its co-counsel currently represent this class.

In October 2019, we were pleased to share that after three years, we had reached a settlement with the state. This settlement is designed to increase class members' access to community-based supports. It also expands access to information about service options, including options for living and working in the community.

That settlement is still intact. However, the Federal Judge overseeing the case has requested certain changes to its terms before giving final approval. Specifically, the Court wanted to address concerns voiced by a group of parents who, while not part of the class itself, are worried about the settlement and its potential impact on their family members in ICFs.

We heard the Judge. And, listened to those who are worried. The settlement is not intended to force any particular service option. In order to further clarify this and address those concerns, we have agreed to include the following assurances:

- The State will request the same ICF daily rate in making its budget requests during the term of the settlement.
- Nothing in the settlement is intended to force a person to forgo or relinquish ICF services, or to remove the ICF option in the future.
- No one currently living in an ICF will be required to accept community-based supports as part of the settlement's options counseling process.
- Individuals who testified against the proposed settlement can be excluded from options counseling.

Both DRO and the state filed their briefs in support of the settlement with these reassurances today. The matter is now back in the Judge's hands as we await his decision.

