

NEWS RELEASE

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Court finds Washington State Health Care Authority Violates Mental Health Parity Act

Blanket exclusion of service for autistic individuals ruled illegal.

Seattle, WA – On June 7, 2011, King County Superior Court Judge Susan J. Craighead entered an Order in *D.F. et. al v. Washington State Health Care Authority*, No. 10-2-294007 SEA, finding that the Washington State Health Care Authority violated the state’s Mental Health Parity Act when it excluded all coverage of Applied Behavioral Analysis therapy, a mental health treatment for individuals with autism. Judge Craighead concluded:

“[U]nder the Mental Health Parity Act [the Health Care Authority and the Public Employees Benefits Board] are required to cover medically necessary Applied Behavior Analysis therapy, as determined on an individualized basis, when provided by licensed providers.”

This is the first ruling on Washington State’s landmark Mental Health Parity Act since it was enacted in 2005. The Parity Act took full effect on July 1, 2010. As of that date, insurers cannot impose treatment limitations on mental health services, if they do not impose comparable limitations on treatment for medical and surgical care.

“The Mental Health Parity Coalition worked long and hard for many years to enact the Parity Act,” said Randy Revelle, chair of the coalition. “We are dismayed to learn that health insurers and the Health Care Authority are not applying it to developmental conditions. The language of the Act is crystal clear – all conditions listed in the Diagnostic and Statistical Manual of Mental Disorders are covered, with a few minor exceptions, so long as the service sought is

medically necessary. Judge Craighead's decision affirms the broad reach of the Act and its application to all citizens with mental illnesses or disorders."

D.F. et. al v. Washington State Health Care Authority is a class action lawsuit filed by two families whose disabled children have been denied behavioral and neurodevelopmental therapies by the Health Care Authority's self-funded insurance plans. All three children need and were denied a behavioral therapy for children with autism known as Applied Behavioral Analysis therapy. One child was also denied speech therapy.

"This decision is a life-saver for many families who have a child with autism," said Arzu Forough, a parent of two of the plaintiffs, and a representative of Autism Speaks, a national advocacy group for people with autism. "We urge the Health Care Authority to implement Judge Craighead's decision immediately so that all children of public employees who have autism can get access to this essential therapy."

"The outcome couldn't be better," said Susan Murdoch, the mother of the other named plaintiff in the lawsuit. "We were lucky enough to be able to pay for our son to receive Applied Behavioral Analysis therapy since he was 3, but other children are not so lucky or their parents go into incredible debt to provide it. This decision is a first step to getting full coverage not only for our son but for many other individuals with developmental disabilities."

"We were thrilled to be a part of this litigation effort," said Eleanor Hamburger of Sirianni Youtz Spoonemore, one of the attorneys representing the plaintiffs. "Judge Craighead's decision is one of the first that applies a state's Mental Health Parity Act to services for individuals with developmental disabilities, such as autism, but it certainly won't be the last." Sirianni Youtz Spoonemore also represents a plaintiff in a similar class action, *D.M. v. Group Health Cooperative*, No. 10-2-28618-7 SEA, pending before Judge Beth Andrus, King County Superior Court.

"In investigating this issue, we examined every Washington State health insurance policy we could get our hands on," said Rick Spoonemore of Sirianni Youtz Spoonemore. "We couldn't believe it. Nearly every policy we reviewed had special limitations or exclusions on services to people with developmental disabilities in one form or another. Those insurers that didn't do so in the actual policy, do so in practice. It is a nearly universal problem."

Reporters who would like to interview the parents involved in this litigation, other families who need Applied Behavioral Analysis therapy or neurodevelopmental therapies, or representatives of providers of those therapies should contact Sean Corry or Eleanor Hamburger.

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