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**People With Disabilities Sue to Halt Elimination of Adult Day Health Care**

Oakland, CA: Today, seven plaintiffs filed a motion for a preliminary injunction in a class action lawsuit on behalf of 35,000 low-income people with disabilities, including older adults. Filed in federal court, the case is called *Darling et al. v Douglas, et al.*C:09-03798 SBA. Plaintiffs seek to stop the state from eliminating Adult Day Health Care (ADHC) as a Medi-Cal benefit, as of September 1, without ensuring that affected people are not harmed, including by being hospitalized or placed in nursing homes.

ADHC provides center-based skilled health and nursing care, therapies, transportation, and other services to low-income seniors and people with disabilities. The planned elimination would place tens of thousands of ADHC participants at risk of institutionalization, hospitalization, injury or death. "Elimination of this program as a Medi-Cal benefit will not only cause irreparable harm to the tens of thousands of people affected by the cuts, but will also result in increased costs to the State and counties in hospitalization, nursing facility placements, Adult Protective Services, and emergency services," says Elissa Gershon, Senior Attorney with Disability Rights California.

Among those affected is 74-year old Esther Darling of Woodland, California. "Before I came to the Center, I used a wheelchair all the time, but now I can walk. My life is so much better because of the Center. I would be lost without it."

Eighty-one year old Allie Jo Woodard of San Francisco lives at home with the help of her daughter and son. Her daughter, Linda Gaspard-Berry, states, “My family has been able to keep my mother in the community with the help of ADHC. If my mother is not able to attend ADHC five days a week we will not be able to keep her at home which would be catastrophic. We will have to immediately find a facility that will take care of her. “

In going to court, the Plaintiffs challenge the legality of a March 2011 budget cut eliminating the ADHC program as a statewide Medi-Cal benefit. Plaintiffs seek a court order stopping this cut unless and until the State assures that Plaintiffs receive adequate and appropriate services needed to avoid hospitalization or institutionalization in nursing facilities. Plaintiffs are represented by Disability Rights California, the National Senior Citizens Law Center, the National Health Law Program, AARP Foundation Litigation, and the firm of Morrison & Foerster LLP.

This current round of litigation continues a case originally filed in August 2009, in federal court in the Northern District of California. The court previously enjoined cutbacks to Medi-Cal funded ADHC in September 2009 and February of 2010. The first order halted an across-the board cut in Medi-Cal funding for ADHC from a maximum of five days per week to no more than three, regardless of individual need, finding that this arbitrary reduction would have increased the likelihood of nursing home placement and hospitalization of the 8,000 program participants attending four and five days per week. (*Brantley et al. v. Maxwell-Jolly*, 656 F.Supp.2d 1161 (N.D. Cal 2009)). The second order stopped implementation of restrictive eligibility criteria that would have terminated 8,000-15,000 clients from ADHC, and increased the chance of their hospitalization and institutionalization (*Cota et al. v. Maxwell-Jolly*, 688 F.Supp.2d 980 (N.D. Cal 2010)). Today, the stakes are even higher, as the entire program is threatened with closure.

“The State cannot shirk its obligation to provide medically necessary services to each and every Medi-Cal participant who qualifies. If the State chooses to cut ADHC services across the board, it still must, according to federal law, continue to provide skilled nursing and therapy services to people who need them” says Anna Rich, attorney with the National Senior Citizens Law Center.

“The State has twice been admonished for not meeting their obligation to the health and safety of Californians with disabilities and ensuring compliance with federal civil rights laws. If the State chooses to eliminate Medi-Cal funded ADHC, it must do so responsibly and legally,” says Morrison & Foerster Partner Ken Kuwayti, who has taken on this case pro bono.

Californians who participate in ADHC average 78 years old and take six or more medications a day, for which nearly 2/3 require supervision or assistance. More than 2/3 also face at least three serious medical challenges including cardiovascular disease, dementia, and diabetes. The overwhelming majority (92%) are entirely dependent on Medi-Cal funding for their care at ADHCs.

Go to <http://www.disabilityrightsca.org/advocacy/Darling-v-Douglas/index.html> for more information on the lawsuit.