

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUL 16 2004

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

UNIVERSITY LEGAL SERVICES-
PROTECTION AND ADVOCACY, INC.

Plaintiffs,

v.

Civil Action No: 1:04CV01021 (RBW)

JOHN STUPAK, ACTING DIRECTOR
NOR WESTERN HUMAN SERVICES,
In his official capacity

and

MARTHA B. KNISLEY, DIRECTOR
DISTRICT OF COLUMBIA
DEPARTMENT OF MENTAL HEALTH
In her official capacity

Defendants.

STIPULATION

The Court has before it a Motion for Preliminary Injunction submitted by plaintiff, University Legal Services-Protection and Advocacy, Inc. (hereinafter "ULS-P&A") and an opposition and supplemental opposition submitted by the defendant, Martha Knisley, Director of the District of Columbia Department of Mental Health (hereinafter "DMH"). The Court has been advised that the plaintiff and defendant DMH have entered into an agreement in the hopes of expeditiously resolving the issues raised in plaintiff's motion. The Court is further advised that all the parties to this matter wish to reserve all claims and defenses that they have raised, as well as any others that may be available to them, and that the willingness of defendant DMH to enter into this agreement is limited to the unique circumstances of this case, including the fact that the case raises

issues concerning access to consumers and records of consumers whose provider of mental health services will no longer be providing services in the District of Columbia. Having considered the representations of the parties, and the record herein, the Court concludes that the interests of justice would be served by the agreement, which is reflected in the order set forth below. Accordingly, it is hereby

ORDERED that ULS-P&A is hereby appointed client representative within the meaning of the District of Columbia Mental Health Information Act, D.C. Code § 7-1201.01(3), for the sole purpose of authorizing defendant DMH to disclose pursuant to D.C. Code § 7-1202.01 names and contact information of those individuals for whom Northwest Human Services ("NWHS") acted as representative payee or managed personal funds from May 2002 to the present, to the extent that DMH obtained such information during the course of its oversight and monitoring of NWHS. In providing this information, DMH shall specify for each of these individuals whether NWHS acted as representative payee for the individual and/or whether NWHS handled personal funds for the individual in a capacity other than as representative payee. The scope of this appointment as client representative is expressly limited to authorizing a one-time disclosure of the individual's name and contact information, including, to the extent known to DMH, the most recent address; the most recent home telephone; the address and phone for legal guardian, next of kin or other contact; the name of the ACT provider to which the individual's care has been transferred; and, if the individual has not been transferred to an ACT provider, the name of the Core Service Agency with which the individual is enrolled; and it is

FURTHER ORDERED that DMH shall furnish ULS-P&A with the names and contact information specified above in writing within five business days of the date of this order; and it is

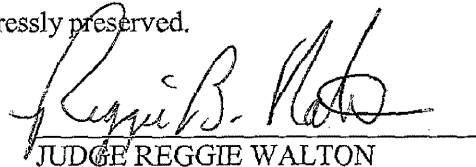
FURTHER ORDERED that, upon DMH furnishing ULS-P&A with this information with respect to any individual, ULS-P&A's appointment as client representative automatically expires with respect to that individual; and it is

FURTHER ORDERED that, in the event ULS-P&A subsequently furnishes DMH with written authorization for the disclosure of records from any individual client of NWHS identified as a result of this order (if required under 42 USC 10805(a)(4)), DMH shall grant access to any and all records requested by ULS-P&A to which ULS-P&A is entitled under 42 CFR § 51.41(c) within ten business days of DMH's actual receipt of the authorization. If such written authorization is not required under 42 USC 10805(a)(4) because ULS-P&A determines the individual does not have capacity to authorize disclosure of the records, does not have a guardian, and has been, or may be, subject to abuse or neglect, ULS shall provide DMH with a written statement to this effect. In such cases where ULS determines that the NWHS' client's capacity to authorize disclosure of records is unclear, ULS will have a licensed social worker or other qualified mental health professional of ULS-P&A's choosing interview the client to make a determination about the individual's capacity and will provide to DMH a written statement which is based on this determination. Within 10 business days of DMH's receipt of the written statement referenced above, a written statement of the bases for probable cause to believe that the individual has been or may be subject to abuse or neglect, and a written request for records from ULS-P&A, DMH shall grant ULS-P&A

access to the records as indicated above. ULS-P&A shall furnish such authorizations or requests by telephonic facsimile to a number specified by DMH and shall contemporaneously confirm DMH's receipt of the facsimile by voice contact; and it is

FURTHER ORDERED that the Court shall defer a ruling on plaintiff's Motion for Preliminary Injunction unless and until one or more of the parties requests otherwise; and it is

FINALLY ORDERED that all claims and defenses available to any of the parties with respect to the Motion for Preliminary Injunction and the Complaint in this matter are not waived hereby, but are expressly preserved.


JUDGE REGGIE WALTON

United States District Court for the
District of Columbia

DATE: July 15, 2004

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