

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

HELEN PITTS, et al.

PLAINTIFFS

V.

BRUCE GREENSTEIN, et al.

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C.A. No. 3:10-cv-00635-JJB-SCR

JUDGE JAMES J. BRADY

MAGISTRATE JUDGE STEPHEN
C. RIEDLINGER

**PLAINTIFFS' SEPARATE STATEMENT
OF DISPUTED ISSUES OF FACT**

Pursuant to Local Rule 56.2, Plaintiffs on behalf of themselves and the putative class members state that the following are material facts in dispute as to which there exists a genuine issue to be tried:

1. How many LT-PCS recipients will be placed at risk of institutionalization as the result of the reduction of maximum hours of LT-PCS from 42 to 32?
2. What would be the cost to the State be of providing LT-PCS hours in excess of the 32-hour maximum to those LT-PCS recipients who will be placed at risk of institutionalization as the result of the reduction of the maximum to 32?
3. What would be the cost to the State be of providing nursing facility services to those LT-PCS recipients who will be institutionalized as the result of the reduction of the maximum to 32?
4. Whether providing LT-PCS hours in excess of the 32-hour maximum to persons who will be at risk of institutionalization is a reasonable accommodation, given the costs of providing nursing facility services to those persons?
5. Whether Defendants have a "comprehensive effectively working plan" for preventing Medicaid recipients who need long term care that can appropriately be provided to them in their homes and communities, from having to enter nursing facilities to receive that care.

6. Whether Defendants have actually available alternative services to prevent the institutionalization of those LT-PCS recipients who will be placed at risk of institutionalization as the result of the reduction of maximum hours of LT-PCS from 42 to 32, given the waiting lists and geographic restrictions that presently exist for potential alternative services.
7. Whether Defendants have adequate services, other than LT-PCS, so that persons with severe disabilities will be able to avoid nursing home placement by promptly receiving adequate Medicaid personal care services in their homes and communities.
8. Whether Defendants' actions in reducing funding for home- and community-based services, while increasing funding to nursing facility services, in the face of increased participation in home- and community-based programs and declining participation in nursing facility services, violates its plan for placing qualified persons with disabilities in less restrictive settings.
9. Whether the reduction in LT-PCS to a maximum of 32 hours a week without any exceptions adheres to or significantly departs from Defendant's plan for long term care services. .
10. Whether Defendants waiting lists for Medicaid services in the community are moving at reasonable pace.
11. Whether Defendants' budget cuts fall disproportionately on people attempting to remain in their own homes and communities while receiving care.
12. Whether the State's reduction of services impacts disproportionately on people with the most severe disabilities.
13. Whether the State intentionally discriminates against people who wish to remain in the own homes and communities by increasing the nursing home/institutional Medical Assistance per diem reimbursements while reducing the Medical Assistance for community-based services.
14. Whether the reduction of LT-PCS services was motivated in whole or in part by the State's desire to maintain compensation levels for providers of nursing facility services at the

expense of services in the community.

Date: March 9, 2011.

Respectfully submitted,

/s/ Nell Hahn

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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2011, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/EDF system. Notice of this filing will be sent to all counsel by operation of the court's electronic filing system.

/s/ Nell Hahn