

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FRANKLIN BENJAMIN, by and through :
his next friend, Andree Yock; RICHARD :
GROGG and FRANK EDGETT, by and :
through their next friend, Joyce McCarthy; :
SYLVIA BALDWIN, by and through her : Civil Action No. 1:09-cv-1182-JEJ
next friend, Shirl Meyers; ANTHONY :
BEARD, by and through his next friend, : Class Action
Nicole Turman, on behalf of themselves :
and all others similarly situated, : Complaint Filed June 22, 2009

Plaintiffs,

v.

DEPARTMENT OF PUBLIC WELFARE :
OF THE COMMONWEALTH OF :
PENNSYLVANIA and GARY :
ALEXANDER, in his official capacity as :
Acting Secretary of Public Welfare of the :
Commonwealth of Pennsylvania, :

Defendants.

ORDER

Upon consideration of Plaintiffs' Unopposed Motion for Preliminary
Approval of the Proposed Class Action Settlement Agreement and for Approval of
the Class Notice, it is hereby ORDERED on this 27th day of
May, 2011 as follows:

1. The proposed Settlement Agreement, attached as Exhibit 2 to the Motion, is preliminarily approved as fair, adequate, and reasonable in accordance with Federal Rule of Civil Procedure 23(e). The Agreement resulted from serious, informed, and non-collusive negotiations among the parties. The Agreement treats all class members equally. The Agreement falls within the range of possible approval, given the complexity, expense, and likely duration of the litigation; the stage of proceedings at which the Agreement was reached; the risks of securing relief; and the range of reasonableness of the Agreement in light of the best possible recovery and the risks of continued litigation. *See In re AT & T Corp.*, 455 F.3d 160, 164-65 (3d Cir. 2006); *Kaplan v. Chertoff*, Civil Action No. 06-5304, 2008 WL 200108 at *11 (E.D. Pa. 2008); *Bradburn Parent Teacher Store, Inc. v. 3M (Minnesota Mining & Mfg. Co.)*, 513 F. Supp. 2d 322, 330 (E.D. Pa. 2007).

2. The Notice of Class Action Proposed Settlement and Hearing, attached to the Motion as Exhibit 3 (the Notice) and the plan for notifying potential class members comply with Rule 23(e)(1) and are approved. The content of the notice adequately apprises potential class members of the litigation: the terms of the Agreement; the right to object; the fairness hearing; and information on how they can receive a copy of the Agreement and contact class counsel. *See Kaplan*, 2008 WL 200108 at *12. The method to distribute notice also is appropriate. The

written notice will be delivered in-person to residents of the state-operated intermediate care facilities for persons with mental retardation (state ICFs/MR) and by mail to any involved family or guardians of those residents.

3. On or before June 24, 2011, four (4) weeks after the date this Order is entered, the Facility Advocates at the state ICFs/MR, who are employed by Plaintiffs' counsel, will hand deliver copies of the written notice to all state ICF/MR residents.

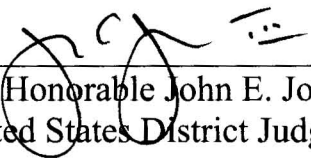
4. On or before June 24, 2011, four (4) weeks after the date this Order is entered, DPW will assure that written notices are sent by first class mail, postage prepaid to all involved families and guardians of state ICF/MR residents.

5. Counsel for Plaintiffs and Defendants each will provide a certification of notice to this Court on or before August 8, 2011, ten (10) days prior to the final approval hearing scheduled in Paragraph 6 of this Order. The certification notice will state when and how the notice to potential class members required by this Order was accomplished.

6. A hearing on final approval of the proposed Settlement Agreement is hereby scheduled for August 22, 2011, at 9:00 a.m. in Courtroom 2 of the United States Courthouse and Federal Building in Harrisburg, Pennsylvania.

7. Any objections or requests to participate in the hearing must be received in writing by the Clerk of this Court on or before August 2, 2011, fourteen (14) days prior to the final approval hearing scheduled in Paragraph 6 of this Order.

8. Plaintiffs will file with the Court a memorandum of law in support of final approval of the proposed Settlement Agreement on or before August 8, 2011, ten (10) days prior to the final approval hearing scheduled in Paragraph 6 of this Order.



The Honorable John E. Jones, III
United States District Judge