



CDCAN REPORT

CALIFORNIA DISABILITY COMMUNITY ACTION NETWORK ADVOCACY WITHOUT BORDERS: ONE COMMUNITY

REPORT #195-2009 JUNE 26, 2009 – FRIDAY

*California Disability Community Action Network Disability Rights News goes out to over 50,000 people with disabilities, mental health needs, seniors, traumatic brain & other injuries, veterans with disabilities and mental health needs, their families, workers, community organizations, including those in Asian/Pacific Islander, Latino, African American communities, policy makers and others across California. To reply to this report write: **MARTY OMOTO** at martyomoto@rcjp.com Website: www.cdcan.us Twitter: [MartyOmoto](#)*

Remembering the life and work of ROSALIND (ROZ) WOFSY of the Contra Costa County Developmental Disabilities Council and Remembering the 10th Anniversary this week of the landmark US Supreme Court Olmstead Decision.

California Budget Crisis:

FEDERAL JUDGE ISSUES WRITTEN ORDER BLOCKING STATE FROM IMPLEMENTING IHSS WORKER WAGE FUNDING CUT UNTIL “ANALYSIS” IS CONDUCTED FIRST AS REQUIRED BY FEDERAL LAW

Her Order Makes No Mention of Fresno County IHSS Worker Wage Cut And Appears Not To Apply

SACRAMENTO, CALIF (CDCAN) [Updated 06/26/09 02:50 PM (Pacific Time) - Federal District Court Judge Claudia Wilken issued today (June 26) a preliminary injunction stopping the State from implementing its reduction in state spending for In-Home Supportive Services (IHSS) worker wages from \$12.10 per hour (includes benefits) to \$10.10 per hour, plus 60 cents for benefits, that was scheduled to go into effect July 1, 2009. Wilken, in a short two page order, said that the State needed first to conduct “an analysis” of its proposed cut, as required by federal law and regulations.

The State said it would appeal her ruling to the US 9th Circuit Court of Appeals. Previous appeals to that court by the State to lift injunctions that blocked the State from implementing cuts to Medi-Cal providers last year and this year have failed.

As reported earlier, the ruling is a victory for nearly 400,000 IHSS workers even though not all would be directly impacted by the decision because they currently make only the state minimum wage – or wages less than \$9.50 per hour. It also is a major victory for the over 400,000 children and adults with disabilities (including developmental), the blind and low income seniors in the IHSS program who worried that any reduction in funding for IHSS worker wages would mean a loss of workers or services.

Wilken’s order made no mention of the issue of the Fresno County Board of Supervisors voting to reduce IHSS worker wages in that county – and it appears her preliminary injunction will not apply to that issue.

Her order also does not impact other cuts to IHSS that is scheduled to go into effect July 1, 2009 impacting the IHSS “Share of Cost Buy-Out” program that was passed as part of the 2009-2010 State Budget passed in February – or new proposals that would reduce funding and narrow eligibility for IHSS that have not yet been approved by the Legislature or Governor yet.

Similar Order Issued By Different Judge To Stop Cuts To Medi-Cal Providers

A similar order and required “analysis” was issued by a different federal judge last year and also earlier this year that blocked the state from implementing its rate reductions to most of the Medi-Cal providers.

Attached to this CDCAN Report – and also on the CDCAN website at www.cdcan.us, is a pdf copy the 2 page order. The federal judge said she a longer written order would follow.

The Legislature approved the Governor’s proposal to reduce state funding (participation) for IHSS worker wages to \$9.50 per hour plus 60 cents for benefits as part of the 2009-2010 State Budget passed in February – four months early. A proposal by the Governor in May to lower that funding even further – to the state minimum wage of \$8 per hour plus 60 cents for health benefits, was rejected by the Budget Conference Committee controlled by legislative Democrats.

TWO PAGE ORDER BY FEDERAL JUDGE:

The two page written order says:

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

*MIKESHA MARTINEZ, et al.,
Plaintiffs,*

v.

*ARNOLD SCHWARZENEGGER, et al.,
Defendants.*

No. C 09-02306 CW PRELIMINARY INJUNCTION

IT IS HEREBY ORDERED that Defendants ARNOLD SCHWARZENEGGER, Governor of the State of California; JOHN A. WAGNER, Director of the California Department of Social Services; DAVID MAXWELL-JOLLY, Director of the California Department of Health Care Services; JOHN CHIANG, California State Controller; and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, are HEREBY ENJOINED AND RESTRAINED from implementing California Welfare and Institutions Code § 12306.1(d)(6) without first conducting the analysis required by 42 U.S.C. § 1396a(a)(30)(A), as described in Orthopaedic Hospital v. Belshe, 103 F.3d 1941, 1493 (9th Cir. 1997).

A reasoned written order will follow.

IT IS SO ORDERED.

Dated: 6/26/2009

CLAUDIA WILKEN

United States District Judge

CDCAN NOTE:

The reference to California's Welfare and Institutions Code which gives the State the authority to reduce state funding to IHSS worker wages to \$9.50 per hour plus 60 cents for health benefits, effective July 1, 2009 (this is the section in state law that the federal judge is blocking):

Section 12306.1 (d)(6) Notwithstanding paragraphs (2) to (5), inclusive, the state shall participate as provided in subdivision (c) in a total cost of wages up to nine dollars and fifty cents (\$9.50) per hour and in individual health benefits up to sixty cents (\$0.60) per hour. This paragraph shall become operative on July 1, 2009.

The other references – to US law and a lawsuit, deals with federal Medicaid laws and regulations.

PLEASE HELP CDCAN CONTINUE ITS WORK!!!

I am back. And I will not go away. And neither will the work of CDCAN and the thousands connected to it through their work and advocacy. But we need your help.

CDCAN Townhall Telemeetings, reports and alerts and other activities cannot continue without your help.

To continue the CDCAN website, the CDCAN News Reports. sent out and read by over 45,000 people and organizations, policy makers and media across California and to continue the CDCAN Townhall Telemeetings which since December 2003 have connected thousands of people with disabilities, seniors, mental health needs, people with MS and other disorders, people with traumatic brain and other injuries to public policy makers, legislators, and issues.

Please send your contribution/donation (make payable to "CDCAN" or "California Disability Community Action Network):

CDCAN

1225 8th Street Suite 480 - Sacramento, CA 95814

paypal on the CDCAN site is not yet working – will be soon.

MANY, MANY THANKS to HOPE SERVICES in San Jose, FEAT of Sacramento (Families for Early Autism Treatment), RESCoalition, Sacramento Gray Panthers, Easter Seals of Southern California, Tri-Counties Regional Center, Westside Regional Center, Regional Center of the East Bay, Friends of Children with Special Needs, UCP of Orange County, UCP of Los Angeles and Ventura Counties, Alta California Regional Center, Life Steps, Parents Helping Parents, Work Training, Foothill Autism Alliance, Arc Contra Costa, Pause4Kids, Manteca CAPS, Training Toward Self Reliance, UCP, California NAELA, Californians for Disability Rights, Inc (CDR) including CDR chapters, CHANCE Inc, , Strategies To Empower People (STEP), Harbor Regional Center, Asian American parents groups, Resources for Independent Living and many other Independent Living Centers, several regional centers, People First chapters, IHSS workers, other self advocacy and family support groups, developmental center families, adoption assistance program families and children, and others across California