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Judge maintains suit brought by disabled NH residents

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MANCHESTER — Thirteen developmentally disabled residents are one step closer to getting a judge to rule on whether the state can force them into a Medicaid Managed Care program for social services, instead of having that care continue to be provided by nine non-profit Area Agencies across the state.

Judge Gillian Abramson refused to dismiss the case against the state of New Hampshire and the state Department of Health and Human Services, brought by the residents and the agencies that provide the mostly Medicaid-covered services,

The Medicaid Managed Care program is expected to save the state \$15 million annually.

Families of the developmentally disabled residents say the relationships their relatives have developed with their caregivers will be lost if they are forced into a Medicaid Managed Care program overseen by for-profit insurance companies which, they argue, have no experience providing the needed social services.

“It’s like going to a dentist to have a broken leg fixed,” said R. Stuart Wallace of Plymouth. His son, Ethan, 29, is autistic and, while he may need medical care from time to time, Wallace said what he requires is round-the-clock care for feeding, getting dress, shelter and safety.

According to the lawsuit, other states spend about \$220,119 per person per year on institutional services. New Hampshire, with no institutional services, averages \$42,959 per person, per year.

New Hampshire Assistant Attorney General Jean Herricker argued the judge should dismiss the lawsuit because its filing is premature since no Medicaid Managed Care program has been developed yet to serve the developmentally disabled and those with acquired brain disorders (ABD).

Thomas Quarles, representing the disabled residents and agencies, said he believes the state filed the motion to dismiss to deliberately delay the case.

He argued that DHHS clearly maintains, contrary to what Herricker said, the Medicaid Managed Care program will apply to the developmentally disabled and those with acquired brain disorders (ABD). But he maintained that SB 147, which created the Medicaid Managed Care program, never mentioned the developmentally disabled or those with ABD.

The lawsuit also is asking the court to rule that none of the Area Agencies will be required to entered into contracts with the “managed care organizations” — three for-profit insurance companies awarded three year contracts that totaled \$2.3 billion, the largest contracts ever awarded in state history — hired to put the managed care system into effect.

Abramson, presiding in Hillsborough County Superior Court, Northern District, denied the state’s motion. She ordered Quarles to file a brief for summary judgement by Dec. 6. The state then has 30 days to file its response.