

Lawsuit Filed Against Ohio Department of Job and Family Services; County Taxpayer with Disability Joins MR/DD Advocates from Around Ohio as Plaintiffs in Lawsuit.

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COLUMBUS, Ohio, April 26 /PRNewswire/ -- On Monday, April 26, 2004, a group of plaintiffs including Delaware County resident Clare Zimmerman, a taxpayer with a developmental disability, filed suit against the Ohio Department of Job and Family Services ([ODJFS](#)) in the Franklin County [Common Pleas](#) Court. Other plaintiffs in the suit include the Delaware County Board of [Mental Retardation](#) and Developmental Disabilities (DCBMR/DD), and parents and taxpayers from around Ohio including residents from New Albany, Columbus, Akron, Liberty Center, Marion and Lima. The plaintiffs and their attorneys conducted a press briefing at 12:00 Noon today, in the Ohio Statehouse. During the conference, Ms. Zimmerman, DCBMR/DD Superintendent Robert Morgan, Franklin County Board of Mental Retardation and Developmental Disabilities Member Ben Hale and the others explained the suit and the growing Medicaid crisis in Ohio.

The lawsuit centers on a rule, recently adopted by the ODJFS, which establishes exorbitant rates for certain Medicaid services and removes essential tools used to determine if the Medicaid services are [medically necessary](#). Under existing Medicaid rules, the DCBMR/DD must first pay the costs of Medicaid before paying for non-Medicaid services. The new rates, in at least one case, require the DCBMR/DD to pay over six times the costs of services for the same program that was being provided before the rule.

Unique among the plaintiffs is Ms. Zimmerman, who because of her disabilities receives services from the DCBMR/DD. Since all of Ms. Zimmerman's services are funded through local county levy dollars, she and thousands of other Ohioans like her are facing loss of the services on which they rely to live, work and learn. Using a programmable speech synthesizer, Ms. Zimmerman explained her concern during the press conference, "I like self-determination. I like having control of my own life. I like the way Delaware County helps my family and me. If the State becomes the boss they will mess it up."

If the rule continues in effect, the DCBMR/DD will be prevented from providing non-Medicaid services to the more than 1,000 residents of Delaware County that are currently in need of mental retardation and developmental disabilities ([MR/DD](#)) services and supports. In addition, the suit alleges that this rule is a gross misuse of taxpayer dollars. The lawsuit is expected to be a [landmark case](#) for the future of all 88 county boards of MR/DD in Ohio. Many believe this suit may determine the future of the county boards' fiscal and administrative viability to provide services to the more than 60,000 Ohioans with MR/DD that they currently serve. The case may have ramifications for other local governmental agencies as well.

The lawsuit includes examples of how Medicaid supported behavioral services for an [autistic](#) child in Delaware County have historically cost \$45,000. Now under the new Medicaid rule, Delaware County taxpayers and the DCBMR/DD must pay private service providers over \$328,000 for the same services, an increase of over 600%. The suit claims that these rates are arbitrary, unreasonably high and contrary to Ohio law. The suit requests an injunction against payments to private providers that are above the provider's usual and customary rates and for services that have not been reviewed and incorporated by a

professional team into an eligible individual's plan, as required by law. DCBMR/DD Superintendent Robert Morgan commented on the new rules, "These rates are outrageous. County boards of MR/DD are required to pay a 42% match for Medicaid reimbursed services, while the rule denies any local control of what services are provided or what rates are paid. Taxpayers are not getting real value for the public dollar spent. If the rule stands, county boards from around Ohio will face the greatest financial crisis in our history. It is also an issue of fairness and equity. These rules will result in a few individuals receiving extraordinarily expensive State defined services while many will not receive the help that they want and need." Morgan pointed out that this will likely affect the youngest Ohioans with disabilities, "This will be especially hard on families with infants and young children who do not qualify for Medicaid. This could force us to drastically reduce or eliminate our [early intervention](#) programs. These services have shown to be very successful in reducing or even eliminating developmental delays. As many as one-third of the children receiving early intervention services reach age-appropriate developmental stages as a result of these services. These services will likely be gone."

Dave Dohnal, an Akron, Ohio father of an adult daughter with a developmental disability and also a plaintiff, points out that the lawsuit, "should anger every taxpayer in Ohio." His comment is based on some of the claims of the suit. "[CAFS](#) (Community Alternative Funding System) was an inefficient way to serve people before this new rule. But now it is an insane use of taxpayers money that's going to break the county boards' back," Dohnal stated. He went on to explain what the rule changes, "Services used to be based on 'cost reimbursement.' That means somebody delivered a service, claimed the cost and received a reasonable reimbursement. Under the new system, rates are set, and reimbursements are provided, regardless of actual costs. Through 'service delegation,' boards of MR/DD might be forced to pay up to \$200 per hour for services delivered by direct care staff with no more than high school diplomas, working for minimum wage!"

More background information about the MR/DD Medicaid crisis in Ohio and the rules being promulgated by ODJFS is available on the web at <http://www.mrddawareness.com/> or by calling Charles H. Arndt at 614.431.0616 or e-mail carndt@oacbmrrd.org.

Ohio's 88 county boards of MR/DD serve more than 60,000 infants, children and adults with total budgets approximating \$1.6 billion annually. Over half of the monies for community-based services are from locally generated property taxes. The OACBMRDD is a non-profit organization specializing in providing information, [continuing education](#), and legislative liaison to Ohio's 88 county MR/DD boards and has been in existence since January of 1984. The mission of the OACBMRDD is to ensure the availability of programs, services and supports that assist eligible individuals with mental retardation and developmental disabilities in choosing and achieving a life of increasing capability such that they can live, work, and play in the community, and to assist and support the families of these individuals in achieving this objective.

Developmental Disabilities

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