

Tackling Medicaid Waiver Cuts and Waiting Lists Part 3

Kevin Truitt,
Disability Rights
Ohio attorney



**Disability
Rights** OHIO

We have the
legal right of way.

Ball v. DeWine



We reached an agreement with the state and county defendants in May 2019.

We received preliminary approval in October 2019, and the fairness hearing was held in December 2019. After modifying our settlement agreement to alleviate some of the Court's concerns, we received final approval in April 2020.

Ball v. DeWine



The case was complicated by the guardian-intervenors, a group of guardians of people in ICFs who opposed our lawsuit. After they were allowed to intervene, they later filed cross-claims against the state and county defendants (and third-party claims against DRO, though they later dismissed these). And they organized many people to testify in opposition to our settlement agreement at the fairness hearing.

Ball v. DeWine



- Settlement agreement continues the progress the state has made in the system since we first sent our demand letter in 2014.
- Additional state-funded waivers for people who want to leave or avoid admission to ICFs, expanded and enhanced options counseling programs, more money for housing and integrated day and employment services, follow-along visits, attorneys' fees.

Christensen v. Miner Overview (1)

- Private ICF residents (about 600 statewide at time of filing) in Utah offered no meaningful path to community-based services.
 - Over decade prior to filing, about 7-8 individuals moved to HCBS. No dedicated funding. Some years 0 moved.
 - Total population increased and new ICFs continued to be licensed.
 - Could be on Waiting List, but were never moved. Meanwhile, Waiting List moved each year. ICF residents essentially trapped.

Christensen v. Miner Overview (2)

- Sent demand letter to the State in December of 2016, but were offered no meaningful resolution.
- Filed complaint alleging Title II/Rehab Act/*Olmstead* violations in Federal Court in mid-January of 2018.
- State requested settlement discussions in late January of 2018, which began in March of 2018, and settlement signed in March of 2019.
- Private ICF intervenors August of 2019, and had families send 100+ letters to court opposing settlement.
- Two day fairness hearing in November of 2019 including ICF intervenors, and settlement approval in December of 2019.