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Advocates Settle Lawsuit Over Delays in Adult Abuse Investigations

(Montpelier) - After a year and a half year of litigation, Vermont Legal Aid and Disability Rights Vermont announced the successful resolution of the lawsuit brought against the State of Vermont regarding the substantial backlog in investigations by the State's Adult Protection Services (APS) program. APS is the State agency responsible for investigating allegations of abuse, neglect, and exploitation of vulnerable elders and people with disabilities. The settlement agreement should result in major changes to APS and provides for significant oversight and monitoring by the public, the plaintiffs, and if necessary, the Court. As part of the settlement agreement, APS has agreed to adopt changes to its policies and practices and to set performance benchmarks to address the problems raised by the plaintiffs in this lawsuit.

At the time the lawsuit was filed, APS had a backlog of over 300 cases waiting to be assigned to an investigator to begin the investigation. APS increased staffing and removed the cases from the backlog shortly after the case was filed, but significant problems remained. The plaintiffs persuaded the Washington Superior Court to order APS to release its investigatory files for review. These APS files, from the period August through October 2012, were reviewed by consultants from New Hampshire hired by the plaintiffs. In their expert report prepared as part of the case, the consultants found ongoing problems with the APS program, including substantial delays in initiating and conducting investigation, the improper screening out of valid reports of abuse, cases improperly found to be unsubstantiated, and failure to provide needed protective services to victims. Plaintiff Gini Milkey, from the Community of Vermont Elders, says, "The expert report clearly showed the seriousness of the problems at APS, and that was based on files closed during the summer and fall of 2012, nine months after this lawsuit first started."

The settlement agreement requires APS to correct all of the deficiencies identified in the report. Joyce Lemire, Executive Director of Senior Solutions stated: "We are encouraged after all these years of problems that this settlement will finally put Vermont on the path to better protect seniors and other vulnerable adults from abuse and exploitation." Under the agreement, APS has agreed to immediately change its policies governing investigations and to be subject to further external review of its files based upon negotiated performance benchmarks. These include:

- Commencing an investigation within 48 hours of receipt of a completed report;

- Investigating all cases that allege abuse, neglect or exploitation of a vulnerable adult;
- Providing protective services to victims during the investigation;
- Providing quarterly file reviews to determine if APS is meeting performance benchmarks set out in the agreement;
- Having plaintiff representation on the APS advisory committee that will monitor the implementation of the settlement agreement.

“We commend the Administration for taking these problems very seriously,” says lead attorney Barbara Prine, from the Disability Law Project of Vermont Legal Aid. “This settlement agreement requires major changes in APS practice, sets tough benchmarks, and provides for monitoring by the public and through the Court. With this agreement, the Administration is taking the steps necessary to address these problems in a manner that will restore public confidence.”

Plaintiff Ed Paquin, Executive Director of Disability Rights Vermont stated, “We are hopeful that the necessary changes in practice will occur to give Vermonters the APS system intended by the legislature and needed by our most vulnerable family members, friends and neighbors.”

Included in the settlement is a provision which states that if APS fails to meet a specified benchmark, it needs to implement a corrective plan to bring APS into compliance. Although the case will be dismissed under the terms of the agreement, the Court retains the ongoing authority to enforce the agreement during the file monitoring period, roughly 18 months starting this fall.

Plaintiff Sandy Conrad, Executive Director of Southwestern Vermont Council on Aging says, “Protecting vulnerable adults from abuse, neglect and exploitation should be one of our central priorities. This settlement puts the State on the path toward achieving that goal.”

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