

EXHIBIT A

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INTRODUCTION AND BACKGROUND

Plaintiffs,¹ a class of Illinois residents with disabilities living in Nursing Facilities in Cook County, Illinois, filed this lawsuit on August 22, 2007, seeking declaratory and injunctive relief to redress alleged violations of Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-32, Section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a), and the Social Security Act, 42 U.S.C. §§ 1396-1396v (SSA). Plaintiffs allege that they are unnecessarily segregated and institutionalized in Nursing Facilities and forced to live with numerous other people with disabilities in violation of the ADA and the Rehabilitation Act, which require Illinois to administer services in the most integrated appropriate setting.

Plaintiffs allege that Defendants have denied them the opportunity to live in appropriate integrated settings where they could lead more independent and more productive lives in their own communities. Plaintiffs seek injunctive relief requiring that Defendants (1) inform Plaintiffs as to their eligibility for Community-Based Services and their choice of such services; (2) provide comprehensive evaluations to determine the eligibility of Plaintiffs for Community-Based Services, both prior to and after admission to Nursing Facilities; and (3) provide, as appropriate, Plaintiffs with services and supports in the Community-Based Setting and refrain from providing services only in institutional settings. Defendants deny liability and specifically deny that they have violated the ADA, the Rehabilitation Act, or the SSA.

Therefore, upon all of the foregoing, and the Court being otherwise fully advised, the Court hereby ORDERS, ADJUDGES and DECREES as follows:

DECREE

¹ Capitalized terms set forth herein are defined in Section IV, "Definition of Terms." All other terms will have the meaning ordinarily attributed to them.

I. JURISDICTION

The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

II. PURPOSE

This Consent Decree shall assure that Defendants provide Plaintiffs and Class Members with the opportunity to receive the full array of supports and services they need in the most integrated settings appropriate to their needs, including Community-Based Settings, and to promote the development of integrated settings that attempt to maximize individuals' independence, choice, opportunities to develop and use independent living skills, and that attempt to afford them the opportunity to live their lives similar to individuals without disabilities.

III. CLASS DEFINITION

On September 29, 2008, the Court certified a class of all Medicaid-eligible adults with disabilities, who are being, or may in the future be, unnecessarily confined to Nursing Facilities located in Cook County, Illinois, and who with appropriate supports and services may be able to live in a Community-Based Setting.²

IV. DEFINITION OF TERMS

A. As used herein, the following terms have the following meanings:

² Although there are Class Members of different ages, Class Members are members of the class not by virtue of their age but by virtue of having either a physical disability or a Mental Illness. Under the State's current service delivery system, such Class Members might be served under different programs administered by different agencies, based in part on age. The relief to which a Class Member is entitled will be determined by a Class Member's needs, qualified by the fact that Class Members may be served under different programs.

1. “Approval Date” means the date on which the Court enters this Consent Decree.
2. “Class Counsel” means SNR Denton US LLP, Access Living of Metropolitan Chicago, Equip for Equality, the Roger Baldwin Foundation of ACLU, Inc., and the Law Offices of Stephen F. Gold.
3. “Class” and “Class Members” mean the persons who meet the definition set forth in Section III, above, and Section IV.A. 3 or 4 below.
4. “Class Members with Mental Illness” are those Class Members who have a primary diagnosis of Mental Illness as defined herein.
5. “Class Members with Physical Disabilities” are those Class Members who have a disability as defined in the ADA, the Rehabilitation Act or the SSA other than a Mental Illness or a developmental disability.
6. “Class Representatives” means Lenil Colbert, Ernest Reeves and Kenya Lyles.
7. “Community-Based Services” means those services provided to a person living in a Community-Based Setting under the Illinois Medicaid State Plan, services provided under any applicable HCBS Waiver, services described in the Medicaid Community Mental Health Services Program administered by the Illinois Department of Human Services’ Division of Mental Health and authorized pursuant to 59 Ill. Adm. Code Part 132 (hereafter referenced as Rule 132) in effect as of the Approval Date, including any subsequent amendments thereto, services listed in the State of Illinois Community Mental Health Services Reimbursement Guide or services provided pursuant to any other similar government programs.

8. “Community-Based Setting” means the most integrated setting appropriate to promote a Class Member’s independence in daily living and ability to interact with persons without disabilities to the fullest extent possible. A Community-Based Setting may include, as is appropriate to the Class Member, a Private Residence, a Supportive Living Facility, Permanent Supportive Housing, or other appropriate supported or supervised residential settings that are specifically chosen by the Class Member or where the Class Member has one of the conditions enumerated in Section VI(D)(3) below.
9. “Cost Neutral Plan” means the plan developed by the Parties and Monitor as provided in Section VI.C 4 and 5 herein. The Cost Neutral Plan must include agreed upon time periods during which Defendants will transition Class Members to Community-Based Settings such that, based on the criteria described herein and set forth in more detail in the plan, the transitions of Class Members cost the same or less to the State in the aggregate as if those Class Members instead had remained in Nursing Facilities. For purposes of the Cost Neutral Plan, data and other information regarding costs shall be collected and analyzed as follows:
 - a) The Parties first shall calculate, for each transitioned Class Member, the State’s total annualized cost for the Class Member’s previous year’s stay in the Nursing Facility and the total annualized cost for the Class Member’s other Medicaid eligible expenses and shall then subtract all items that reduce the State’s cost, including the Class Member’s contributions, if any,

from Social Security, SSDI, pension or other sources, and any Federal Medicaid match. For example, the State's total annual cost of \$46,000, minus a Class Member's contribution of \$7,560 (\$630/month) equals \$38,440, minus the standard fifty percent (50%) Medicaid match of \$19,220 equals the State's net annual cost of \$19,220.

b) The Parties shall track each Class Member who is transitioned to a Community-Based Setting and determine the State's net annual cost for each Class Member by: (i) adding up the State's total annual payments to the community provider(s) and other Medicaid eligible expenses for the Class Member, (ii) adding an agreed-upon amortized portion of the Transition Costs or other one-time costs paid to or on behalf of the Class Member, (iii) adding an agreed-upon amortized portion of any additional agreed-upon administrative or collateral costs incurred by the State as a result of implementation of this Decree (e.g., hiring Evaluators; costs directly related to persons choosing to enter Nursing Facilities who, but for this Decree, would not have done so; actual investment of capital for development of Community-Based Settings used by Class Members), (iv) adding Housing Assistance, and then (v) subtracting the Federal Medicaid match. For example, a total annual payment of \$14,000 to community providers and medical care providers, plus \$1,000 for the amortized portion of Transition Costs or other one-time costs eligible for federal match,

plus \$1,000 as the amortized portion of State costs not eligible for federal match (e.g., administrative and collateral costs), plus Housing Assistance of \$8,400 equals \$24,400, minus a Medicaid match of \$7,500 equals the State's net annual cost of \$16,900 and a net annual savings of \$2,320.

c) The Parties shall aggregate the cost differential for all Class Members transitioned in the first 24 months following the finalization of the Implementation Plan; provided, however, that the Parties may agree to also use the data from the six months following the first 24 months and any other information relevant to projecting future costs.

10. "Court" means the United States District Court for the Northern District of Illinois, Eastern Division.
11. "Decree" means this Consent Decree.
12. "Defendants" means the current or any future Governor of the State of Illinois, Secretary of the Illinois Department of Human Services, Director of the Illinois Department of Public Health, Director of the Illinois Department on Aging, and Director of the Illinois Department of Healthcare and Family Services including any head of any successor to the departments listed herein.
13. "Evaluation" means an assessment for Class Members, provided by a Qualified Professional, who is appropriate for the respective disability population, to determine a Class Member's level of need and/or eligibility for services and to determine the services appropriate for that Class

Member, including the services needed to reside in a Community-Based Setting.

14. “Home and Community-Based Services Waiver (HCBS Waiver)” means a federally approved waiver program under which services are offered as an alternative to institutional care for individuals who meet the requirements of the HCBS Waiver.
15. “Home Accessibility Adaptation Costs” mean, as determined in the Service Plan development process, the one-time payment of allowable expenses necessary to make a Community-Based Setting accessible for a Class Member; provided, however, that Home Accessibility Adaptation Costs shall not exceed \$5,000 per Class Member.
16. “Housing Assistance” means, as determined in the Service Plan development process, the financial assistance for housing that is necessary to make it possible, if provided together with the Community-Based Services and any Transition Costs and Home Accessibility Adaptation Costs identified in the Service Plan, for the Class Member to transition from a Nursing Facility to a Community-Based Setting, subject to the following limitations: (1) that the Class Member has been a resident of a Nursing Facility for at least 6 consecutive months, including any temporary stay in a hospital or other long-term care facility, as of the date of the Class Member’s first Evaluation; (2) that the Class Member will apply as soon as practicable for a federal Section 8 housing voucher or other similar housing rental subsidy; (3) that, once an adequate housing voucher or subsidy is received by the Class Member, the Housing

Assistance will terminate; (4) the total Housing Assistance provided to each eligible Class Member shall be calculated as follows: the monetary difference between the actual rent paid by the Class Member or the Fair Market Rent (FMR), as defined by the United States Department of Housing and Urban Development and found at www.huduser.org/portal/datasets/fmr/fmrs/FY2011code/2011summary.odn, as amended, whichever is lower, less any government-funded housing subsidy, and 30 percent of the Class Member's Income;³ and (5) consistent with Defendants' obligations in Sections V and VI to provide services, support resources and the benchmarks set forth in Section VI(C), the total Housing Assistance provided to eligible Class Members shall be no more than \$1,330,000 in the first year following the finalization of the Implementation Plan, no more than \$4,680,000 in the second year following the finalization of the Implementation Plan (including for transitions occurring in the first year), no more than \$3,990,000 in months 25-30 following the finalization of the Implementation Plan (including for transitions occurring in the first and second years), with aggregate Housing Assistance maximums determined thereafter as part of the

³ For example, if a Class Member is paying actual rent of \$900.00 per month, the FMR is \$800.00 per month, the Class Member has Income of \$600.00 per month and is receiving another rent subsidy of \$100.00 per month, then the Housing Assistance would be \$520.00 per month, calculated as $\$800 - \$100 = \$700 - \$180 [.3 \times \$600] = \520 . As another example, if a Class Member with \$600.00 per month Income and no other rent subsidy is living with a relative and paying half of the actual rent of \$1,100.00 per month, and the FMR is \$1,100.00, then Housing Assistance would be \$330.00 per month, calculated as $\$550 - \$180 [.3 \times \$600] = \330 .

development of the Cost Neutral Plan, as described in Section VI.C.4 and 5 herein.

17. "Illinois Medicaid State Plan" or "State Plan" means the plan that was submitted by the State of Illinois to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, in accordance with Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396v, in effect as of the date of the Approval of the Decree, including any subsequent amendments thereto.
18. "Income" shall mean all monies classified as Adjusted Gross Income in the Internal Revenue Code, including, but not limited to, earnings, private or public pensions, self employment social security benefits, SSI benefits, dividends, interest, capital gains, rents and federal and earned income credits.
19. "Implementation Plan" means the plan set forth below in Section VIII.
20. "Mental Illness" means serious mental illness as defined in 77 Illinois Administrative Code, Chapter I, Section 300.4000.
21. "Monitor" means the person or entity appointed by the Court pursuant to Section IX hereof to perform the functions more fully described therein.
22. "Nursing Facility" means a long term care facility licensed by the Illinois Department of Public Health under 77 Ill. Admin. Code 300, where the license authorizes the facility to provide, for one or more beds, skilled nursing level of care to its residents, where "skilled nursing level of care" means the provision of skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional

direction with frequent medical supervision; provided, however, that a Nursing Facility does not include a privately owned long-term care facility classified as an Institution for Mental Diseases (IMD) for purposes of eligibility for Federal Medicaid matching funds.

23. "Parties" means Plaintiffs and Defendants, collectively.
24. "Permanent Supportive Housing" or "PSH" refers to integrated permanent housing, with tenancy rights, linked with flexible Community-Based Services that are available to consumers when they need them, but are not mandated as a condition of tenancy. For purposes of this Decree, PSH includes scattered-site housing as well as apartments clustered in a single building.
25. "Person-Centered" means a planning process designed to empower Class Members to make plans for their future according to their needs and desires, with the support of their legal guardians, family, friends, or service providers as appropriate. For Class Members with Mental Illness, "Person Centered" means a process based on a model of recovery.
26. "Plaintiffs" means all Class Members.
27. "Pre-Admission Screening and Resident Review (PASRR) Agency" means any entity that provides assessments for Class Members with Mental Illness, and that (i) contracts with the State to perform, in conformance with federal screening requirements, pre-admission screening and resident reviews on persons with Mental Illness who may be placed or currently reside in a Nursing Facility, and (ii) as a condition of its contract with the State, has received sufficient training and/or has

sufficient experience providing services to demonstrate a comprehensive understanding of the available Community-Based Settings, including Permanent Supportive Housing, and Community-Based Services, Transition Costs and Housing Assistance.

28. “Pre-Admission Screening” means an assessment for Class Members, conducted by a Qualified Professional, with the input of the Class Member, to determine a Class Member’s need for long-term care and the appropriate level of care, and a Class Member’s desire to receive Community-Based Services or placement in a Community-Based Setting.
29. “Private Residence” means a house, apartment, condominium, townhouse or any housing structure that may or may not be shared with family or friends. A Private Residence may not be an IMD, a Nursing Facility, a group home or any supervised or supported setting.
30. “Qualified Professional” means a person, including an employee of a PASRR Agency, who (a) is not employed by or an agent of a Nursing Facility, a hospital or other long-term care facility that also provides housing; (b) may be employed by a governmental body so long as the collective group of Qualified Professionals includes a substantial number of persons not employed by any Defendant agency; and (c) is certified or approved by the Defendants as appropriately licensed, skilled, trained and qualified to conduct Evaluations.
31. “Service Plan” means a Person-Centered plan with the goal of moving a Class Member to a Community-Based Setting, strategies to be employed to achieve that goal and a description of all Community-Based Services,

Transition Costs, Home Accessibility Adaptation Costs and/or Housing Assistance necessary to support that goal.

32. "State" means the State of Illinois.
33. "Supportive Living Facility" or "SLF" means a residential setting meeting the requirements of Subpart B, 89 Ill. Admin. Code 146.205.
34. "Transition Costs" mean the one-time payment of allowable expenses necessary to accomplish the transition of a Class Member from a Nursing Facility to a Community-Based Setting, limited to those expenses that are necessary to enable a person to establish a basic household that do not constitute room and board, including: (a) security deposits (including first month rent payments if so included by a landlord in advance "deposits"), move-in application or other fees that are required to obtain a lease on an apartment or home; (b) essential household furnishings and moving expenses required to occupy and use a community domicile, including furniture, window coverings, food preparation items, and bed/bath linens; (c) set-up fees or deposits for utility or services access, including telephone, electricity, heating and water; (d) services necessary for the person's health and safety, such as pest eradication and one-time cleaning prior to occupancy; and (e) first month's food needs. Expenditures listed herein as allowable Transition Costs will be approved only to the extent that they are reasonable and necessary as determined through the Service Plan development process, and are clearly identified in the Service Plan, and only to the extent that the Class Member cannot pay for such Transition Costs or obtain the allowable item or services identified in this

subparagraph from other sources. Transition Costs do not include monthly rental or mortgage expense; food (after the first month); regular utility charges; previously incurred debts and arrearages; and/or household appliances or items that are intended for purely diversional/recreational purposes. Transition Costs shall not exceed \$4,000 for the lifetime of any Class Member.

V. THE DISABILITY SERVICES SYSTEM

Development of Community Capacity. Defendants shall develop and implement necessary and sufficient measures, services, supports and other resources, such as having service providers available for and able to locate affordable housing, to arrange for transition into Community-Based Settings, and to assist Class Members with accessing Community-Based Services, consistent with the choices of Class Members, to ensure that the Defendants will meet their obligations under the Decree and the Implementation Plan. Nothing in this Consent Decree shall reduce, impair or infringe on any rights or entitlements of any Class Members in any State program or in any Medicaid program.

VI. EVALUATIONS AND SERVICE PLANS

A. Evaluations.

1. Each Class Member is eligible for an Evaluation to determine what Community-Based Services are required for the Class Member to transition to a Community-Based Setting. Within 180 days following the finalization of the Implementation Plan, at least 500 Class Members then residing in a Nursing Facility shall receive an Evaluation by a Qualified Professional.

2. Within eighteen months following the finalization of the Implementation Plan, a total of at least 2,000 Class Members then residing in a Nursing Facility shall have received an Evaluation by a Qualified Professional.
3. Subject to approval of and consistent with the Cost Neutral Plan, every Class Member then residing in a Nursing Facility shall receive an Evaluation by a Qualified Professional within the time period determined as part of the development of the Cost Neutral Plan.
4. The Qualified Professionals shall inform each Class Member during the Evaluations about the existence, nature and availability of Community-Based Settings and shall describe the Community-Based Services, Transition Costs and/or Housing Assistance that may be available to Class Members in those settings.
5. Evaluations shall be done in a timely manner so as not to delay, where applicable, the development of a Class Member's Service Plan.
6. Any Class Member who disputes a decision regarding eligibility for, or approval of, Community-Based Services, Transition Costs and/or Housing Assistance or placement in a Community-Based Setting shall, pursuant to governing law, have the right to appeal through administrative review of such decisions through Defendants' existing Fair Hearings process (as set forth in 89 Ill.Adm.Code Parts 102 and 104) or as otherwise provided by law. Class Members also may avail themselves of any informal review or appeal process that currently exists.
7. Subject to approval of and consistent with the Cost Neutral Plan, beginning four years following the Approval Date, the Evaluations for

every Class Member then residing in a Nursing Facility shall be conducted at least annually, except for Class Members who decline to receive Evaluations and for Class Members who have been determined by a medical doctor to have a condition such as severe dementia or other clinically significant and progressive cognitive disorders and are unlikely to improve. For those Class Members who have been offered a Community-Based Setting but have opposed moving from a Nursing Facility to a Community-Based Setting, the reasons for the Class Member's opposition shall be fully explored and appropriately addressed as part of the Class Member's annual Evaluation and as described in Section VII herein. Any Class Member who has received an Evaluation but has declined to move to a Community-Based Setting may thereafter request to be re-Evaluated for transition to a Community-Based Setting. Any such re-Evaluation must be conducted within 120 days of the request.

8. With respect to Evaluations and re-Evaluations described in this Section VI.A, any Class Member has the right to decline to take part in an Evaluation or re-Evaluation. A Class Member declining an Evaluation or re-Evaluation shall have the right to receive an Evaluation or re-Evaluation within 120 days of making a new request.

B. Service Plans.

1. Pursuant to the Evaluations and with a Class Member's input, Defendants shall develop, within 90 days after each Evaluation, Service Plans specific to each Class Member. For those Class Members whose Service Plans include transitioning to a Community-Based Setting, each Service Plan

shall set forth with specificity the Community-Based Services, Transition Costs, Home Accessibility Adaptation Costs and/or Housing Assistance the Class Member needs in a Community-Based Setting, including a projected timetable to complete the transition. Each Service Plan shall be updated at least every 180 days to reflect any changes in needs and preferences of the Class Member, including his or her desire to move to a Community-Based Setting after declining to do so, and shall incorporate, where appropriate, services to assist in acquisition of basic activities of daily living skills and illness self-management.

2. If there has been a determination that a Class Member will be transitioning to PSH, the PSH options offered must include one or more appropriate buildings in which fewer than 25 percent of the building's units are occupied by persons known by the Defendants to have disabilities.
3. If there is a determination that a Class Member will not be transitioning to PSH or Private Residence (except for those Class Members who have declined transitions), the Service Plan shall specify what services the Class Member needs that could not be provided in PSH or a Private Residence and shall describe the Community-Based Services the Class Member needs to live in another Community-Based Setting that is the most integrated setting appropriate to that Class Member's needs and preferences or shall specify what services the Class Member needs that cannot be provided in any Community-Based Setting.

4. The Service Plan shall be developed by a Qualified Professional in conjunction with the Class Member and/or his or her legal representative, if any.
5. Each Service Plan shall focus on the Class Member's personal vision, preferences, strengths and needs in home, community and work environments.

C. Benchmarks for Transitions for Individuals Residing in Nursing Facilities.

1. By the end of the first year following the finalization of the Implementation Plan, Defendants will have moved to a Community-Based Setting 300 Class Members who desire to live in Community-Based Settings and who have received an Evaluation and a Service Plan.
2. By the end of the second year following the finalization of the Implementation Plan, Defendants will have moved to a Community-Based Setting 800 Class Members who desire to live in Community-Based Settings and who have received an Evaluation and a Service Plan.
3. By the end of the thirtieth month following the finalization of the Implementation Plan, Defendants will have moved to a Community-Based Setting 1,100 Class Members who desire to live in Community-Based Settings and who have received an Evaluation and a Service Plan.
4. Not later than thirty months after the finalization of the Implementation Plan, the Defendants, Monitor and Counsel for Class Plaintiffs shall agree on a Cost Neutral Plan to move to Community-Based Settings at a reasonable pace all Class Members who desire to live in Community-Based Settings. However, if the Defendants, Monitor and Counsel for

Class Plaintiffs jointly determine, based on an analysis of the data and other information regarding the cost of moving the first 800 to 1,100 Class Members, that no remaining Class Member can be moved in a cost neutral manner, then the Parties will file a joint motion to terminate the Decree. If the Parties cannot agree that a Cost Neutral Plan is feasible, then either Party may seek appropriate guidance and relief from the Court.

5. If the Defendants, Monitor and Counsel for Class Plaintiffs are unable, for any reason, to agree on a Cost-Neutral Plan as described above at the 30th month after finalization of the Implementation Plan, Defendants and Counsel for Class Plaintiffs shall each file a proposed Cost Neutral Plan with the Court not later than 31 months after finalization of the Implementation Plan. The Court will set appropriate schedules and proceedings to determine the Cost Neutral Plan to be effected.
6. Subject to the approval of and consistent with the Cost Neutral Plan described above, by the end of the third year following the finalization of the Implementation Plan, Defendants shall have created a Community Transition Schedule that lists all Class Members living in Nursing Facilities as of that date who do not oppose moving to a Community-Based Setting. Defendants shall ensure that Class Members listed on the Community Transition Schedule will move to appropriate Community-Based Settings at a reasonable pace, with selection prioritized by the Class Member's urgency of need for Community-Based Services or placement in a Community-Based Setting, the length of time that has passed since the Class Member was placed on the Community Transition Schedule,

geographical considerations and other appropriate factors. The Defendants shall identify or develop sufficient numbers of appropriate Community-Based Settings so that Class Members placed on the Community Transition Schedule will be able to move to appropriate Community-Based Settings as quickly as possible consistent with the Cost Neutral Plan.

D. Community-Based Settings and Community-Based Services.

1. Defendants shall ensure that Class Members who move to a Community-Based Setting have access to all appropriate Community-Based Services, Transition Costs, Home Accessibility Adaptation Costs and/or Housing Assistance specified in their Service Plans, and shall take appropriate measures to keep their housing available in the event that they are placed in a hospital, Nursing Facility or other treatment facility for up to 60 consecutive days.
2. Defendants shall take all necessary and reasonable measures to protect Class Members from being pressured not to consider appropriate alternatives to Nursing Facilities or from being subjected to retaliation in any form by Nursing Facilities for seeking alternatives to Nursing Facilities.
3. For Class Members with Mental Illness, PSH or the Private Residence chosen by the Class Member shall be considered the most integrated Community-Based Setting appropriate except that for any Class Members with Mental Illness (i) who have been determined by a physician not affiliated with a Nursing Facility to have a condition such as severe

dementia or other severe cognitive impairments requiring such a high level of staffing to assist with activities of daily living or self-care management that they cannot effectively be served in PSH or a Private Residence, (ii) who have medical needs requiring such a high level of skilled nursing care that they cannot effectively be served in PSH or a Private Residence, or (iii) who present an imminent danger to themselves or others, the Qualified Professional will determine, through the Evaluation process, the most integrated setting appropriate. Those Class Members not transitioning from Nursing Facilities into PSH or a Private Residence shall have periodic re-Evaluations with treatment objectives to prepare them for subsequent transition to the most integrated setting appropriate, including PSH or a Private Residence, except for Class Members who have chosen other living arrangements or have been determined by a physician not affiliated with a Nursing Facility to have a condition such as severe dementia or other clinically significant and progressive cognitive disorders and are unlikely to improve.

VII. OUTREACH

Defendants shall ensure that Class Members receive complete and accurate information regarding their rights to live in Community-Based Settings and/or to receive Community-Based Services, Transition Costs, Home Accessibility Adaptation Costs and/or Housing Assistance, and the available options and opportunities for doing so. The Implementation Plan shall describe the method by which such information will be disseminated, the process by which Class Members may request services, and the manner in which Defendants will maintain current records of these requests. Defendants shall also ensure that the Qualified Professionals conducting the

Evaluations provide outreach with appropriate frequency to Class Members who express concerns about leaving the Nursing Facilities. The Implementation Plan shall describe methods for providing outreach to Class Members. All costs for outreach shall be borne by Defendants.

VIII. IMPLEMENTATION

A. **Overview and Contents of the Implementation Plan.** Defendants, with the input of the Monitor and counsel for Plaintiffs, shall create and implement an Implementation Plan to accomplish the obligations and objectives set forth in the Decree. The Implementation Plan must, at a minimum:

1. Establish specific tasks, timetables, goals, programs, plans, strategies and protocols to assure that Defendants fulfill all of the requirements of the Decree;
2. Describe the hiring, training and supervision of the personnel necessary to implement the Decree;
3. Describe the activities required to support the development and availability of Community-Based Services, Transition Costs, Home Accessibility Adaptation Costs and/or Housing Assistance and Community-Based Settings, including inter-agency agreements, requests for proposals, mechanisms for Housing Assistance, and other actions necessary to implement the Decree;
4. Identify, based on information known at the time the Implementation Plan is finalized and updated on a regular basis, any services or supports anticipated or required in Service Plans developed pursuant to the Decree that are not currently available in the appropriate quantity, quality or

geographic location, and might be required to meet the obligations of the Decree;

5. Identify any necessary changes to regulations that govern Nursing Facilities in order to strengthen and clarify requirements for services to Nursing Facility residents and to provide for effective oversight and enforcement of all applicable regulations and laws; and
6. Describe the methods by which Defendants shall ensure compliance with their obligations of this Decree.

B. Within 180 days of Approval of the Decree, Defendants shall provide the Monitor and Counsel for Class Plaintiffs with a draft Implementation Plan. The Monitor and Counsel for Class Plaintiffs shall participate in developing and finalizing the Implementation Plan, which shall be finalized not later than nine months following the Approval Date. If, after negotiation and comment, the Monitor or Counsel for Class Plaintiffs disagrees with the Defendants' proposed Implementation Plan, the Court shall resolve all disputes and finalize the Implementation Plan.

C. The Implementation Plan shall be updated and amended at least annually. The Monitor and Counsel for Class Plaintiffs shall review and comment upon any proposed updates or amendments at least 60 days before the effective date of any updates or amendments. In the event the Monitor or Counsel for Class Plaintiffs disagree with the Defendants' proposed updates or amendments, the Monitor or Counsel for Class Plaintiffs shall state all objections in writing at least 30 days before the effective date of any updates or amendments. In the event that Defendants, the Monitor and Counsel for Class Plaintiffs do not agree on updates

and amendments, the Court shall resolve any and all disputes before any updates or amendments become effective.

- D. The Implementation Plan, and all amendments or updates thereto, shall be filed with the Court and shall be incorporated into and become enforceable as part of the Decree.
- E. In the event that any Nursing Facility seeks to discharge any Class Member before a Community-Based Setting is available, including, but not limited to, circumstances in which a Nursing Facility owner decides to close the Nursing Facility, Defendants shall take appropriate and necessary actions to ensure that such Class Members are not left without appropriate housing options based on their preferences, strengths and needs.

IX. MONITORING AND COMPLIANCE

- A. **Appointment of a Monitor.** The Court will appoint an independent and impartial Monitor who is knowledgeable concerning the management and oversight of programs, including waiver programs, that serve Individuals with Mental Illness and Physical Disabilities of all ages. The Parties shall attempt to agree on the selection of a Monitor to propose to the Court. If the Parties are unable to reach agreement, each party will nominate at least one person to serve as Monitor, and the Court will select the Monitor. Within 21 days of Approval of the Decree, the Parties shall submit their joint recommendation or separate nominations for a Monitor to the Court. In the event the Monitor resigns or otherwise becomes unavailable, the process described above will be used to select a replacement.

- B. **Duties and Reporting.** The Monitor's duties include evaluating Defendants' compliance with the Decree, identifying actual and potential areas of non-compliance with the Decree, mediating disputes between the Parties, and bringing issues and recommendations for their resolution to the Court. The Monitor will file a written report at least annually with the Court and the Parties regarding compliance with the Decree. Such reports shall include the information necessary, in the Monitor's professional judgment, for the Court and Class Counsel to evaluate Defendants' compliance or non-compliance with the terms of the Decree. Reports of the Monitor shall be filed with the Court and served on all Parties. The Monitor may redact any portions of the Report necessary to make certain confidential matters and information are not disclosed.
- C. **Review and Evaluation of Data and Information.** The Monitor shall review and evaluate Defendants' compliance with the terms of the Decree. Not less than every six months, starting no later than three months after finalization of the Implementation Plan, Defendants shall provide the Monitor and Plaintiffs with a report containing data and information sufficient to evaluate Defendants' compliance with the Decree and Defendants' progress towards achieving compliance, with the Parties and Monitor agreeing in advance of the first report on the data and information that must be included in such report. Defendants will not refuse any request by the Monitor for documents or other information that are reasonably related to the Monitor's review and evaluation of Defendants' compliance with the Decree, and Defendants will, upon reasonable notice, permit confidential interviews of Defendants' staff or consultants, except their attorneys. The Monitor will have access to all Class Members and their records and files, as

well as to those service providers, facilities, buildings and premises that serve, or are otherwise pertinent to, Class Members, where such access is reasonably related to the Monitor's review and evaluation of Defendants' compliance with the Decree. The Defendants shall comply with Class Counsel's requests for information that are reasonably related to Defendants' compliance with the Decree, including without limitation requests for records and other relevant documents pertinent to implementation of the Decree or to Class Members. Class Counsel also shall be permitted to review the information provided to the Monitor. All information provided to the Monitor and/or Class Counsel pursuant to the Decree shall be provided subject to the Protective Order and any applicable HIPAA requirements.

- D. **Compliance.** In the event the Monitor finds Defendants not in compliance with the Decree, the Monitor shall promptly meet and confer with the Parties in an effort to agree on steps necessary to achieve compliance. In the event that Class Counsel believe that Defendants are not complying with the terms of the Decree, Class Counsel shall notify the Monitor and Defendants of Defendants' potential non-compliance. The Monitor then shall review Plaintiffs' claims of actual or potential non-compliance and, as the Monitor deems appropriate in his or her professional judgment, meet and confer with Defendants and Plaintiffs in an effort to agree on steps necessary to achieve compliance with the Decree. If the Monitor and Parties agree, such steps shall be memorialized in writing and incorporated into, and become enforceable as part of, the Decree. In the event that the Monitor is unable to reach agreement with Defendants and Plaintiffs, the Monitor or either Party may seek appropriate relief from the Court. In the event

that Plaintiffs believe that Defendants are not in compliance with the Decree and that the Monitor has not requested appropriate relief from the Court, Plaintiffs may seek relief from the Court. The Monitor shall not communicate with the Court without advance notice to the Parties.

- E. **Compensation of the Monitor.** The Monitor may hire staff as necessary to fulfill his or her duties under the Decree. Defendants shall compensate the Monitor and his or her staff at their usual and customary rates, so long as the rates are reasonable. Defendants shall reimburse all reasonable expenses of the Monitor and the Monitor's staff, consistent with the guidelines set forth in the "Governor's Travel Control Board Travel Guide for State Employees." After negotiation, comment and a good faith attempt to resolve all differences, Defendants may seek relief from the Court if Defendants believe that any of the Monitor's charges is inappropriate or unreasonable.

X. CLASS REPRESENTATIVES

- A. Within 60 days of Approval of the Decree, Defendants shall offer each of the Class Representatives the opportunity to receive appropriate services in the most integrated setting appropriate to his or her needs. Provision of services to the Class Representatives pursuant to this paragraph shall not be used to determine any other individual's eligibility for services under the terms of the Decree.

XI. ATTORNEYS' FEES AND COSTS

- A. In full settlement of all attorneys' fees and costs incurred in connection with the litigation, Defendants shall pay \$1,200,000 to Class Counsel in three equal payments. Defendants shall make the first payment in State Fiscal Year 2012 (which begins July 1, 2011), the second payment in State Fiscal Year 2013 (which

begins July 1, 2012), and the third payment in State Fiscal Year 2014 (which begins July 1, 2013). All of the payments shall be distributed to Class Counsel in the manner set forth in written instructions provided by Class Counsel.

Furthermore, such amounts shall be set forth in one or more Judgment Orders to be entered by the Court within 14 days after Approval of the Decree. Defendants shall complete and submit all paperwork necessary for the first payment, plus applicable statutory post-judgment interest, within (a) five business days after expiration of the time to appeal the Decree without the filing of a Notice of Appeal, or after the issuance of the mandate by the highest reviewing court, whichever is later, or (b) April 1, 2012, whichever is later. Defendants shall complete and submit all paperwork necessary for the second payment no later than July 1, 2012 and the paperwork necessary for the third payment, no later than July 1, 2013.

XII. MISCELLANEOUS PROVISIONS

- A. **Approval of the Decree.** Approval of this Decree shall be deemed to occur on the date the Court enters the Decree.
- B. **Cost of Notices.** The cost of all notices hereunder or otherwise ordered by the Court shall be borne by Defendants.
- C. **Signatories.** Each undersigned representative of a Defendant to this litigation and the Attorney General for the State of Illinois certifies that he or she is authorized to enter into the terms and conditions of the Decree and to execute and bind legally such Defendant to this document. Each undersigned representative of Plaintiffs certifies that he or she is authorized to enter into the terms and

conditions of the Decree and to execute and bind legally the Plaintiffs to this document.

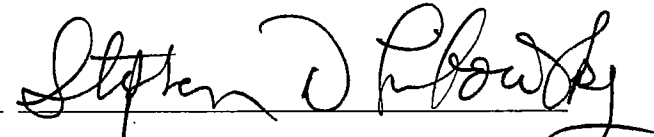
- D. Unless otherwise ordered by the Court, this Decree shall terminate at the earliest of the following: (1) as specified in the Parties' joint motion to terminate the Decree, as provided in Section VI.C.4; or (2) as specified in the Cost Neutral Plan approved by the Court.

SO ORDERED THIS _____ DAY OF _____, 2011.

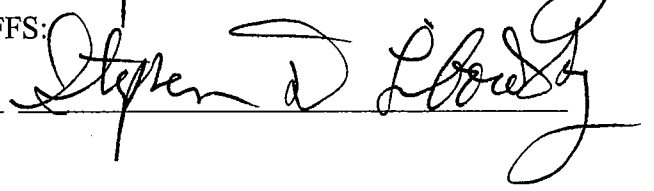
United States District Judge

EACH UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Colbert v. Quinn*, Case No. 07-4737, pending in the United States District Court for the Northern District of Illinois, Eastern Division.

FOR THE CLASS PLAINTIFFS:

Date: August 26, 2011 

AS ATTORNEYS FOR CLASS PLAINTIFFS:

Date: August 26, 2011 

FOR DEFENDANT, GOVERNOR OF ILLINOIS:

Date: _____

FOR DEFENDANT, SECRETARY OF ILLINOIS DEPARTMENT OF HUMAN SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT ON AGING:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF DEPARTMENT OF PUBLIC HEALTH:

Date: _____

AS ATTORNEY FOR DEFENDANTS:

Date: _____

EACH UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Colbert v. Quinn*, Case No. 07-4737, pending in the United States District Court for the Northern District of Illinois, Eastern Division.

FOR THE CLASS PLAINTIFFS:

Date: _____

AS ATTORNEYS FOR CLASS PLAINTIFFS:

Date: _____

FOR DEFENDANT, GOVERNOR OF ILLINOIS:

Date: August 25, 2011 Pat Quinn

FOR DEFENDANT, SECRETARY OF ILLINOIS DEPARTMENT OF HUMAN SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT ON AGING:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF DEPARTMENT OF PUBLIC HEALTH:

Date: _____

AS ATTORNEY FOR DEFENDANTS:

Date: _____

EACH UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Colbert v. Quinn*, Case No. 07-4737, pending in the United States District Court for the Northern District of Illinois, Eastern Division.

FOR THE CLASS PLAINTIFFS:

Date: _____

AS ATTORNEYS FOR CLASS PLAINTIFFS:

Date: _____

FOR DEFENDANT, GOVERNOR OF ILLINOIS:

Date: _____

FOR DEFENDANT, SECRETARY OF ILLINOIS DEPARTMENT OF HUMAN SERVICES:

Date: *Michelle H. S. Suddler* 8-19-11

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT ON AGING:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF DEPARTMENT OF PUBLIC HEALTH:

Date: _____

AS ATTORNEY FOR DEFENDANTS:

Date: _____

EACH UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Colbert v. Quinn*, Case No. 07-4737, pending in the United States District Court for the Northern District of Illinois, Eastern Division.

FOR THE CLASS PLAINTIFFS:

Date: _____

AS ATTORNEYS FOR CLASS PLAINTIFFS:

Date: _____

FOR DEFENDANT, GOVERNOR OF ILLINOIS:

Date: _____

FOR DEFENDANT, SECRETARY OF ILLINOIS DEPARTMENT OF HUMAN SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT ON AGING:

Date: August 22, 2011 Michael Gelde

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF DEPARTMENT OF PUBLIC HEALTH:

Date: _____

AS ATTORNEY FOR DEFENDANTS:

Date: _____

EACH UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Colbert v. Quinn*, Case No. 07-4737, pending in the United States District Court for the Northern District of Illinois, Eastern Division.

FOR THE CLASS PLAINTIFFS:

Date: _____

AS ATTORNEYS FOR CLASS PLAINTIFFS:

Date: _____

FOR DEFENDANT, GOVERNOR OF ILLINOIS:

Date: _____

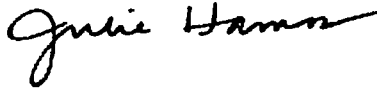
FOR DEFENDANT, SECRETARY OF ILLINOIS DEPARTMENT OF HUMAN SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT ON AGING:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY



SERVICES: Date: August 24, 2011

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF DEPARTMENT OF PUBLIC HEALTH:

Date: _____

AS ATTORNEY FOR DEFENDANTS:

Date: _____

EACH UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Colbert v. Quinn*, Case No. 07-4737, pending in the United States District Court for the Northern District of Illinois, Eastern Division.

FOR THE CLASS PLAINTIFFS:

Date: _____

AS ATTORNEYS FOR CLASS PLAINTIFFS:

Date: _____

FOR DEFENDANT, GOVERNOR OF ILLINOIS:

Date: _____

FOR DEFENDANT, SECRETARY OF ILLINOIS DEPARTMENT OF HUMAN SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT ON AGING:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF DEPARTMENT OF PUBLIC HEALTH:

Date: 8/24/11 

AS ATTORNEY FOR DEFENDANTS:

Date: _____

EACH UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Colbert v. Quinn*, Case No. 07-4737, pending in the United States District Court for the Northern District of Illinois, Eastern Division.

FOR THE CLASS PLAINTIFFS:

Date: _____

AS ATTORNEYS FOR CLASS PLAINTIFFS:

Date: _____

FOR DEFENDANT, GOVERNOR OF ILLINOIS:

Date: _____

FOR DEFENDANT, SECRETARY OF ILLINOIS DEPARTMENT OF HUMAN SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT ON AGING:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES:

Date: _____

FOR DEFENDANT, DIRECTOR OF ILLINOIS DEPARTMENT OF DEPARTMENT OF PUBLIC HEALTH:

Date: _____

AS ATTORNEY FOR DEFENDANTS:


Date: August 26, 2011 

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LENIL COLBERT, et al.,)	
)	
Plaintiffs,)	
)	No. 07 C 4737
v.)	
)	Judge Joan Humphrey Lefkow
)	Magistrate Judge Maria Valdez
PAT QUINN, et al.,)	
)	
Defendants.)	

NOTICE PLAN

In furtherance of their agreement to seek this Court’s approval of the Parties’ proposed Consent Decree, Plaintiffs Lenil Colbert, Kenya Lyle and Ernest Reeves, on behalf of themselves and all others similarly situated (Plaintiffs), and Defendants Pat Quinn, Michelle R.B. Saddler, Julie Hamos, Charles D. Johnson,¹ and Damon T. Arnold, in their official capacities (collectively, “the Parties”), propose that the notices more fully described below be approved by the Court as fully comporting with the requirements of Federal Rule 23(e) and due process:

1. Defendants will cause the notice set forth in Exhibit B-1 to be published in the following newspapers: *Chicago Sun-Times*, *Chicago Defender*, *Daily Herald*, *Southtown Star*, and *Pioneer Press*. These publications have been identified due to their broad circulation to readers throughout Cook County. Based on publicly available information, those publications have a combined circulation of close to one million readers. Publication will occur on a single

¹ Since this lawsuit was filed, Charles D. Johnson has retired and Michael Gelder has been named the Acting Director of the Department on Aging.

business day within fifteen (15) business days from the date of preliminary approval of the Consent Decree.

2. Defendants will post notice in the form set forth in Exhibit B-2 on the following websites within five (5) business days from the date of preliminary approval of the Consent Decree and maintain that posting through and including the date of the fairness hearing:

Division of Mental Health of the Illinois Department of Human Services	http://www.dhs.state.il.us/page.aspx?item=29728
Division of Rehabilitation Services of the Illinois Department of Human Services	http://www.dhs.state.il.us/page.aspx?item=29764

The DHS Division of Mental Health is responsible for providing comprehensive services to individuals with mental illness in Illinois, including various community-based settings. The DHS Division of Rehabilitation Services is responsible for assisting people with physical disabilities in achieving full community participation through employment, education, and independent living opportunities.

3. Plaintiffs' counsel will post notice in the form attached as Exhibit B-2 to the Motion on the following websites within five (5) business days from the date of preliminary approval of the Consent Decree and maintain that posting through and including the date of the fairness hearing:

Access Living	www.accessliving.org
Equip for Equality	www.equipforequality.org
ACLU of Illinois	www.aclu-il.org

Access Living is the not-for-profit center for independent living that serves the City of Chicago. Equip for Equality is the not-for-profit corporation appointed by the State of Illinois to

implement the federally-mandated Protection and Advocacy System in Illinois for persons with disabilities. ACLU is a non-profit, non-partisan organization dedicated to protecting civil rights and liberties guaranteed by the U.S. Constitution. Equip for Equality, Access Living and ACLU work directly with individuals with disabilities.

4. Within fifteen (15) business days from the date of preliminary approval of the Consent Decree, Defendants will cause notice to be sent via first class mail in the form set forth in Exhibit B-2 to all preadmission screening and resident review (“PASRR”) agencies located in Cook County, Illinois. PASRR agencies are responsible, by contract with the State of Illinois, for determining whether individuals with mental illness are eligible for placement institutional settings.

5. Within fifteen (15) business days from the date of preliminary approval of the Consent Decree, Defendants will cause notice to be sent via first class mail in the form set forth in Exhibit B-2 to the following disability rights-related organizations located in Illinois:

AARP Illinois	Chicago Bar Association - Mental Health and Disability Law Committee
Abraham Low Self-Help Systems	Chicago Coalition for the Homeless – Law Project
Anixter Center	Chicago-Kent College of Law - Health & Disability Law Clinic
Arthritis Foundation-Illinois	Chicago Lighthouse for the Blind
Brain Injury Association of Illinois	Community Behavioral Healthcare Association of Illinois
Breaking Stigma Inc.	Community Counseling Centers of Chicago
Center for Disability and Elder Law	Community Mental Health Board of Chicago
CARPLS	Community Mental Health Council
Catholic Archdiocese of Chicago	
Commission on Mental Illness	
CAUSE	

Community Renewal Society	Illinois Mental Health Planning and Advisory Council
Cook County Public Defender	
Corporation for Supportive Housing – Illinois	Illinois Network of Centers for Independent Living
Counseling Center of Lakeview	Illinois Psychiatric Society
Deborah’s Place	Illinois Psychological Association
DePaul University College of Law - Civil Rights Clinic	Illinois Society for Clinical Social Work
Depression and Bipolar Support Alliance	Illinois State Bar Association –Disability Committee, Mental Health Law Committee, Lawyers’ Committee for Civil Rights Under Law
Domestic Violence and Mental Health Policy Initiative	Jewish Vocational Services
Health and Disability Advocates	John Howard Association
Health and Medicine Policy Research Group – Center for Long Term Care Reform	John Marshall Law School - Fair Housing Clinic
Health Care Council of Illinois	Lawyers’ Committee for Civil Rights under the Law
Heartland Alliance – Heartland Health Outreach, Inc.	Loyola University Chicago School of Law Beazley Institute for Health Law & Policy - Health Justice Project
Human Resources Development Institute	Lutheran Social Services of Illinois
Illinois Association of Community Mental Health Authorities	Mayor’s Office for People with Disabilities (Chicago)
Illinois Association of Rehabilitation Facilities	Mental Health America of Illinois
Illinois Citizens for Better Care	Mental Health Consumer Education Consortium
Illinois Guardianship and Advocacy Commission	Metropolitan Chicago Homeless Action Committee
Illinois Healthcare Association	Muscularly Dystrophy Association-Chicago
Illinois Hospital Association	National Alliance on Mental Illness of Greater Chicago
Illinois Legal Aid Online	
Illinois Long-term Care Ombudsman	

National Alliance on Mental Illness of Illinois	Progress Center
National Alliance on Mental Illness of South Suburbs of Chicago	Rehabilitation Institute of Chicago
National Association of Social Workers – Illinois Chapter	Sankofa Organization of Illinois, Inc.
National Federation of the Blind of Illinois	Southern Illinois University School Law - Civil Practice / Elderly Clinic
National Mental Health Voter Empowerment Project of Illinois	Spinal Cord Injury Association of Illinois
National Multiple Sclerosis Society-Greater Illinois Chapter	Supportive Housing Providers Association of Illinois
Next Steps	Thresholds Psychiatric Rehabilitation Centers
Northern Illinois University College of Law - Elder Law Clinic	Transitions
Northwestern School of Law - Bluhm Legal Clinic	Trilogy, Inc.
Obsessive Compulsive Foundation of Chicago	Trinity Services
Office of the Cook County Public Guardian	United Cerebral Palsy of Greater Chicago
	University of Chicago Law School - Mandel Legal Aid Clinic
	University of Illinois College of Law - Federal Civil Rights

9. Within fifteen (15) business days from the date of preliminary approval of the Consent Decree, Defendants will cause notice to be sent via first class mail in the form set forth in Exhibit B-2 to all of the (approximately 186) nursing facilities in Cook County. The notice will be accompanied by a letter from Defendants mandating that the nursing facilities (1) post the notice within forty-eight (48) hours of receipt on bulletin boards, in dining areas and large recreational areas, and maintain such posting through and including the date of the fairness hearing; (2) distribute a copy of the notice to each nursing facility resident and maintain a master

list of resident signatures verifying receipt of the notice; and (3) take reasonable steps to make the notice available to residents and their family members and/or guardians.

10. All notices sent pursuant to Paragraphs 4 - 9, above, shall be sent in envelopes that indicate: "CONTAINS OFFICIAL LEGAL NOTICE."

EXHIBIT B-1

EXHIBIT B-1: FORM OF SUMMARY PUBLICATION NOTICE

**LEGAL NOTICE OF PROPOSED CLASS ACTION
CONSENT DECREE AND HEARING**

If you are a person in Cook County, Illinois, who is 18 years of age or older, Medicaid-eligible and living in a nursing facility, a class action lawsuit may affect your rights.

This Notice is being published by order of the United States District Court for the Northern District of Illinois to inform you of the proposed settlement of a class action lawsuit (*Colbert v. Quinn*, Case No. 07 C 4737) set forth in a proposed Consent Decree ("Consent Decree") against the Governor of the State of Illinois, the Secretary of the Illinois Department of Human Services, the Director of the Illinois Department of Healthcare and Family Services, the Director of the Illinois Department of Aging, and the Director of the Illinois Department of Public Health regarding services provided to individuals with disabilities residing in nursing facilities in Cook County, Illinois. The parties to that lawsuit have reached a proposed Consent Decree that, if approved by the Court, would provide certain rights and benefits to eligible individuals. The Court will hold a hearing to consider whether to approve the proposed Consent Decree on _____ at _____ a.m. before the Honorable Joan Humphrey Lefkow, United States District Judge, in the Dirksen Federal Building, 219 S. Dearborn Street, Room 1925, Chicago, Illinois 60604.

Who's Included? You are a Class Member whose rights may be affected by the proposed Consent Decree if you are a Medicaid-eligible adult with a physical disability or a primary diagnosis of serious mental illness that causes you to be substantially functionally limited in certain respects, who lives in a nursing facility located in Cook County, Illinois, and who, with appropriate supports and services, may be able to live in the community.

What Does the Proposed Settlement Provide? Plaintiffs and Defendants have asked the Court to enter an order that, if approved, would provide certain rights and benefits (as more fully described in the proposed Consent Decree) to eligible Class Members living in nursing facilities. The Consent Decree provides eligible Class Members the opportunity to make meaningful informed choices about where they live; requires Defendants to ensure that supports and services are available to individuals with disabilities in integrated, non-institutional settings; and establishes procedures to avoid unjustified institutionalization.

How Can I Get More Information? A detailed Notice describing the proposed Consent Decree, the rights of class members and a copy of the proposed Consent Decree itself are available on the website of the Division of Mental Health of the Illinois Department of Human Services <http://www.dhs.state.il.us/page.aspx?item=29728>, Division of Rehabilitation Services of the Illinois Department of Human Services <http://www.dhs.state.il.us/page.aspx?item=29764>, Equip for Equality www.equipforequality.org, Access Living www.accessliving.org, and the American Civil Liberties Union of Illinois www.aclu-il.org. If you have any questions for plaintiffs' lawyers, you may contact Patti Werner at Access Living, 115 W. Chicago Ave., Chicago, IL 60654, (312) 640-2148, TTY (312) 640-2102.

Dated: _____, 2011

Honorable Joan Humphrey Lefkow
United States District Court Judge

EXHIBIT B-2

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LENIL COLBERT, et al.,)	
)	
Plaintiffs,)	
)	No. 07 C 4737
v.)	
)	Judge Joan Humphrey Lefkow
)	Magistrate Judge Maria Valdez
PAT QUINN, et al.,)	
)	
Defendants.)	

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY

A SETTLEMENT HAS BEEN PROPOSED THAT MAY AFFECT THE RIGHTS OF INDIVIDUALS WITH DISABILITIES LIVING IN NURSING FACILITIES WHO MAY BE ABLE TO LIVE IN COMMUNITY- BASED SETTINGS.

BASIC INFORMATION

1. WHY DID YOU GET THIS NOTICE?

You were sent this Notice to inform you about the proposed settlement of the class action lawsuit, as set forth in the Consent Decree (“Consent Decree”) proposed in this case, which may affect the rights of individuals with disabilities living in nursing facilities in Cook County who with appropriate supports and services may be able to live in the community. This Notice was sent to you and other people (and/or guardians or legal representatives) in Cook County who have been identified as being eighteen (18) years of age or older with a physical disability or mental illness, Medicaid-eligible and who may be able to live in the community, as well as individuals and entities who care for and work with them.

This Notice explains the lawsuit and the key terms of the Consent Decree, tells you how to obtain more information, explains how to determine whether an individual with a disability living in a nursing facility is a Class Member in the lawsuit, and explains how Class Members (and/or their legal representatives) can tell the Court whether they disagree with the Consent Decree or some part of it.

The Consent Decree described in this Notice is subject to Court approval, and thus has not yet been made final. The Court has scheduled a hearing to determine the fairness, adequacy

and reasonableness of the Consent Decree and to consider any objections Class Members may have to the Consent Decree.

The Consent Decree may affect the rights of individuals with disabilities living in nursing facilities in Cook County who may be able to live in community-based settings. *The Consent Decree does not require anyone currently living in a nursing facility to move out unless he or she specifically chooses to do so.*

2. WHAT IS THIS LAWSUIT ABOUT?

The Court in charge of the lawsuit is the United States District Court for the Northern District of Illinois, and the case is known as *Colbert v. Quinn*, Case No. 07-4737. The people who sued are called the Plaintiffs, and the people they sued are called the Defendants.

Plaintiffs filed this lawsuit on August 22, 2007, seeking to prevent what they allege is their unnecessary segregation in nursing facilities by Defendants. The named Plaintiffs are adults with physical disabilities or mental illness who are or were institutionalized in Cook County nursing facilities. The named Defendants are: Pat Quinn, the Governor of the State of Illinois; Michelle R. B. Saddler, Secretary of the Illinois Department of Human Services; Julie Hamos, Director of the Illinois Department of Healthcare and Family Services; Damon T. Arnold, Director of the Illinois Department of Public Health; and Charles D. Johnson, Director of the Illinois Department on Aging.¹ The Defendants are responsible for administering the State of Illinois's programs for people with physical disabilities and mental illness. The lawsuit seeks to compel the State of Illinois (through the Defendants) to comply with federal law and rulings of the United States Supreme Court by offering individuals with disabilities the opportunity to make meaningful, informed choices about whether to live, and receive support service, in the community.

3. WHAT IS A CONSENT DECREE AND WHY IS IT BEING PROPOSED HERE?

A Consent Decree is a final order of a court in a case that is agreed to by all Plaintiffs and Defendants. The Court in this case did not decide in favor of either Plaintiffs or Defendants. There was no trial or dispositive court ruling in the case. Instead, the Plaintiffs and Defendants negotiated a settlement of this dispute that is set out in the Consent Decree. Plaintiffs and Defendants have asked the Court to enter the Consent Decree as an official order of the Court. By settling this lawsuit, the Parties avoid having to face the uncertainty of the outcome of a trial as well as the substantial cost of a trial. In addition, people with physical disabilities and mental illness living in Cook County will get relief from Defendants much sooner than if they had to wait for the resolution of the lawsuit through a trial and expected appeals. That process could take many years. The Plaintiffs who filed the lawsuit and their attorneys think the Consent Decree is the best outcome for the people who are Class Members.

¹ Since this lawsuit was filed, Charles D. Johnson has retired and Michael Gelder has been named the Acting Director of the Department on Aging.

4. WHO IS A CLASS MEMBER?

The Court has certified the lawsuit as a class action and decided that everyone who fits this description is a Class Member: any adult with a disability who (a) is Medicaid-eligible; (b) resides in a nursing facility in Cook County; and (c) may, with appropriate supports and services, be able to live in the community.

5. WHAT IS CONSIDERED A DISABILITY?

In the Consent Decree, the definition of “disability” includes a physical disability as well as mental illness. For the purposes of this lawsuit, disability does not include a developmental disability. Persons with developmental disabilities are not Class Members. Under the Consent Decree, a Class Member with a physical disability has a disability as defined in the Americans with Disabilities Act (“ADA”), the Rehabilitation Act, or the Social Security Act, other than a mental illness or a developmental disability.

Under the Consent Decree, a Class Member with mental illness must have a primary diagnosis of “serious mental illness” and be substantially functionally limited due to mental illness in at least two of the following areas: self-maintenance, social functioning, community living activities; and work-related skills. “Serious mental illness” is defined as a diagnosis of: schizophrenia; delusional disorder; schizo-affective disorder; psychotic disorder not otherwise specified; Bipolar Disorder I - mixed, manic, and depressed; Bipolar Disorder II; Cyclothymic Disorder; Bipolar Disorder not otherwise specified I; and major depression, recurrent. In addition, the disability must be of an extended duration expected to be present for at least a year, which results in a substantial limitation in major life activities. These individuals will typically have experienced two or more psychiatric hospitalizations and receive Social Security Income (SSI) or Social Security Disability Income (SSDI) because of mental illness, or have been deemed eligible for SSI or SSDI.

THE SETTLEMENT

6. WHAT DOES THE CONSENT DECREE IN THIS CASE PROVIDE?

The Consent Decree that the Plaintiffs and Defendants have asked the Court to enter in this case, if approved by the Court, would provide certain rights and benefits to eligible Class Members as defined above. If the Consent Decree is not approved, it will be withdrawn and the lawsuit will continue. A copy of the entire Consent Decree is available on the following websites:

Division of Mental Health of the Illinois Department of Human Services	http://www.dhs.state.il.us/page.aspx?item=29728
Division of Rehabilitation Services of the Illinois Department of Human	http://www.dhs.state.il.us/page.aspx?item=29764

Services

Access Living

www.accessliving.org

Equip for Equality

www.equipforequality.org

ACLU of Illinois

www.aclu-il.org

Plaintiffs and Defendants in this case believe that the Consent Decree is fair, reasonable and provides adequate and appropriate relief to all eligible Class Members. The parties believe the Consent Decree provides eligible Class Members the opportunity to make meaningful and informed choices about where they live. The Consent Decree requires Defendants to make available adequate services to support Class Members who choose to receive services in the community, rather than in a nursing facility. The Consent Decree establishes procedures to allow Class Members to choose placement in the community while also allowing Class Members who choose to remain living in nursing facilities.

The following is a brief summary of key terms in the Consent Decree:

- Measurable Benchmarks - The Consent Decree establishes benchmarks for moving specific numbers of Class Members out of nursing facilities during the first phase of implementation. Under the Consent Decree, Defendants are required to move 1,100 Class Members into the community within the first two and one half years of implementation. Under the Consent Decree, 300 Class Members are to be moved in the first year; 500 in the second year, and 300 Class Members in the first six months of year three. The Parties will develop benchmarks for Class Members moving into the community during the second phase of implementation.

The Consent Decree does not require anyone currently living in a nursing facility to move out unless he or she specifically chooses to do so.

- Housing Assistance - The Consent Decree requires Defendants to provide up to a total of \$10 million in housing assistance in order to support the first 1,100 Class Members moving into the community during the first two and one half years of implementation. In addition, Defendants are required to provide funds for required home modifications, and for the purchase of basic furniture, and other household items such as sheets, towels, and kitchen utensils. During the first phase of implementation, the Parties will develop a plan that addresses housing assistance for these and other Class Members going forward.
- Cost-Neutrality - The Consent Decree requires that the Parties develop a plan for the second phase of implementation that provides for Class Members to continue moving into the community at a reasonable pace and in a “cost-neutral” fashion. That means that the cost incurred by the State for Class Members who move into the community will, in aggregate, be no more than the cost that the State would have spent had those moved Class Members remained in nursing facilities.

- Development of Community Capacity - The Consent Decree requires Defendants to develop the services needed to adequately support Class Members who choose to live in the community.
- Monitoring and Compliance - Under the Consent Decree, the Court will appoint an independent and impartial monitor (“Monitor”) who is knowledgeable about providing services to people with mental illness or physical disabilities in the community. The Monitor will work with the Parties to develop the plan for the second phase of implementation as well as assist the Court in evaluating the Defendants’ compliance with the Consent Decree.
- Attorneys’ Fees and Costs - Under the Consent Decree, Defendants will pay \$1,200,000 to the attorneys who brought this case on behalf of the Plaintiffs and the Class Members (“Class Counsel”). Those attorneys are identified below in response to question 13. This payment will be in full settlement of attorneys’ fees and costs incurred in connection with the prosecution of the lawsuit. This is substantially less than the actual fees that Class Counsel have incurred in pursuing this lawsuit. Class Members do not have to pay anything to Class Counsel. Private law firm counsel are not retaining any portion of these fees; they are donating their share of fees to one of the not-for-profit organizations involved in bringing this case.

7. WHAT IS A "COMMUNITY-BASED SETTING" AND WHAT ARE "COMMUNITY-BASED SERVICES"?

In the Consent Decree, "Community-Based Setting" means the most integrated setting appropriate to promote a Class Member’s independence in daily living and ability to interact with persons without disabilities to the fullest extent possible. A Community-Based Setting may be a house, an apartment, a supportive living facility, permanent supportive housing, or another type of supported or supervised residential setting that is specifically chosen by the Class Member.

In the Consent Decree, “Community-Based Services” means those services provided to a person living in a Community-Based Setting under the Illinois Medicaid State Plan, services provided under any applicable Home and Community Based Services Waiver, services described in the Medicaid Community Mental Health Services Program administered by the Illinois Department of Human Services’ Division of Mental Health and authorized pursuant to 59 Ill. Adm. Code Part 132 (hereafter referenced as Rule 132) in effect as of the Approval Date, including any subsequent amendments thereto, services listed in the State of Illinois Community Mental Health Services Reimbursement Guide or services provided pursuant to any other similar government programs. Some examples of Community-Based Services are personal attendants and homemakers who can assist with preparing meals, dressing, bathing, and other activities of daily living, in-home nursing care, and mental health services to address crisis management, risk factors, self-advocacy, or medication management.

8. WILL CLASS MEMBERS RECEIVE MONEY FROM THE CONSENT DECREE?

No. The lawsuit did not seek money damages on behalf of any Class Member, and there is no money awarded to any Class Member as part of the Consent Decree.

CLASS MEMBERS' RIGHTS

Class Members (and/or guardians or legal representatives) can tell the Court whether they agree or disagree with the Consent Decree or some part of it.

9. HOW DO YOU TELL THE COURT THAT YOU AGREE OR DISAGREE WITH ALL OR PART OF THE CONSENT DECREE?

All Class Members have the right to state any objection they may have to the Consent Decree and to give reasons why they believe the Court should not approve it. All Class Members have the right to state their approval of the Consent Decree, although they are under no obligation to do so.

The Court and the Parties will consider those opinions submitted by Class Members in the following manner:

- The statement must include the name and number of the case, (*Colbert v. Quinn*, Case No. 07-4737);
- The statement must include a statement of the reasons why the Court should or should not approve the Consent Decree;
- The statement must be no longer than 15 pages in length;
- The statement must include the name, address, telephone number, and signature of the individual submitting it; and
- The statement must be submitted by U.S. Mail and postmarked no later than ___, 2011, to

Patricia A. Werner
Access Living
115 West Chicago Avenue
Chicago, Illinois, 60654.

Attorney Patricia Werner, co-counsel for the Class, will inform the Court and other counsel for the Plaintiffs and Defendants of the statements that she receives and that Class Members want presented to the Court. Please note that it is not sufficient to simply state that you object. Objections must state the reasons why the Consent Decree should not be approved.

THE COURT'S FAIRNESS HEARING

The Court will hold a Fairness Hearing to decide whether to approve the Consent Decree.

10. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE CONSENT DECREE?

The Fairness Hearing will be held before the Honorable Joan Humphrey Lefkow, United States District Judge, in the Dirksen Federal Building, 219 S. Dearborn Street, Room 1925 Chicago, Illinois 60604, on _____, 2011, at _____ a.m. At this hearing, the Court will consider whether the Consent Decree is fair, reasonable, and adequate. The Court will consider any objections made according to the procedures described above.

11. DO YOU HAVE TO COME TO THE HEARING?

All Class Members are welcome to attend the Fairness Hearing if they choose to do so, but no one is required to attend the Fairness Hearing. Plaintiffs' and Defendants' lawyers will be available to answer questions Judge Lefkow may have. If you submit a statement or objection in accordance with the procedures described in Section 9, above, you are not required to come to Court to talk about it. As long as you mailed your written statement or objection in accordance with the procedures described in Section 9, above, the Court will consider it.

12. WHO CAN SPEAK AT THE FAIRNESS HEARING?

You may ask the Court for permission to speak at the Fairness Hearing. The Judge will decide whether you are permitted to do so. To request permission to speak at the Fairness Hearing, you must send a request to the Court, Class Counsel, and Counsel for the Defendants in the following manner:

- The request must be entitled: "Notice of Intention to Appear in *Colbert v. Quinn*, Case No. 07-4737"
- You must send one copy of your "Notice of Intention to Appear" to the Court at the following address via U.S. mail postmarked no later than _____:

Clerk of the Court
Dirksen Federal Building
219 South Dearborn Street
Chicago, Illinois 60604

- The Notice must be received by the Clerk of the Court no later than _____.

- You must send one copy of your "Notice of Intention to Appear" to attorney listed below via U.S. mail postmarked no later than _____:

Patricia Werner
Access Living of
Metropolitan Chicago
115 W. Chicago Ave.
Chicago, IL 60654

- Be sure to include your name, address, telephone number, and your signature on your "Notice of Intention to Appear."
- If you file a statement or objection and also want to ask for permission to speak at the Fairness Hearing, you can include the "Notice of Intention to Appear" in the same document as the statement/objection that is sent to Patricia Werner at Access Living, 115 West Chicago Avenue, Chicago, Illinois, 60654. Ms. Werner will share copies of these "Notices of Intention to Appear" with other counsel for the parties.

LAWYERS REPRESENTING THE CLASS

13. WHO ARE THE CLASS MEMBERS' LAWYERS IN THE CASE?

The Court ordered that the following attorneys represent the Class Members. These lawyers are called "Class Counsel."

Stephen D. Libowsky
SNR DENTON US LLP
233 South Wacker, Suite 7800
Chicago, IL 60606

Celiza P. Bragança
Patricia A. Werner
ACCESS LIVING OF METROPOLITAN CHICAGO
115 West Chicago Avenue
Chicago, IL 60654

Benjamin S. Wolf
THE AMERICAN CIVIL LIBERTIES UNION OF ILLINOIS
180 North Michigan Avenue, Suite 2300
Chicago, IL 60601

Karen I. Ward
EQUIP FOR EQUALITY
20 N. Michigan, #300
Chicago, IL 60602

Stephen F. Gold
LAW OFFICES OF STEPHEN F. GOLD
125 South Ninth Street, Suite 700
Philadelphia, PA 19107

Class Members will not be charged for these lawyers' fees or expenses.

GETTING MORE INFORMATION

14. HOW DO YOU GET MORE INFORMATION ABOUT THE CONSENT DECREE?

A copy of the entire Consent Decree is available on the following websites:

Division of Mental Health of the Illinois Department of Human Services	http://www.dhs.state.il.us/page.aspx?item=29728
Division of Rehabilitation Services of the Illinois Department of Human Services	http://www.dhs.state.il.us/page.aspx?item=29764
Access Living	www.accessliving.org
Equip for Equality	www.equipforequality.org
ACLU of Illinois	www.aclu-il.org

If you have any questions for Plaintiffs' lawyers or want to request that a copy of the Consent Decree be mailed to you, you may contact Patricia A. Werner at Access Living, 115 West Chicago Avenue, Chicago, Illinois 60654, (312) 640-2148, TTY (312) 640-2102.

Dated: _____, 2011

The Honorable Joan Humphrey Lefkow
United States District Court Judge

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LENIL COLBERT, et al.,)	
)	
Plaintiffs,)	
)	No. 07 C 4737
v.)	
)	Judge Joan Humphrey Lefkow
)	Magistrate Judge Maria Valdez
PAT QUINN, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on the Joint Motion for Preliminary Approval of Consent Decree and Approval of Notice Plan ("Motion"). Having reviewed the Motion and supporting Memorandum, and being otherwise fully advised.

IT IS HEREBY ORDERED:

I. The Court preliminarily finds that the Consent Decree attached as Exhibit A to the Motion is within the appropriate range of fairness, adequacy and reasonableness.

2. The Court approves the Notice Plan attached as Exhibit B to the Motion. Notice shall occur by publication, posting on the internet, and sending written notice via first class mail as follows:

a) Defendants shall cause the notice set forth in Exhibit B-1 to the Motion to be published in the *Chicago Sun-Times*, *Chicago Defender*, *Daily Herald*, *Southtown Star*, and *Pioneer Press*. Publication shall occur on at least a single business day within fifteen (15) business days from the date of preliminary approval of the Consent Decree.

b) Defendants shall post notice in the form attached as Exhibit B-2 to the Motion on the following websites within five (5) business days from the date of preliminary approval of the Consent Decree and maintain that posting through and including the date of the fairness hearing set by this Court:

Division of Mental Health of the Illinois Department of Human Services	http://www.dhs.state.il.us/page.aspx?item=29728
Division of Rehabilitation Services of the Illinois Department of Human Services	http://www.dhs.state.il.us/page.aspx?item=29764

c) Plaintiffs' counsel shall post notice in the form attached as Exhibit B-2 to the Motion on the following websites within five (5) business days from the date of preliminary approval of the Consent Decree and maintain that posting through and including the date of the fairness hearing.

Access Living	www.accessliving.org
Equip for Equality	www.equipforequality.org
ACLU of Illinois	www.aclu-il.org

d) Defendants shall arrange and pay for notice to be sent via first class mail in the form attached as Exhibit B-2 to the Motion to all preadmission screening agencies in Cook County, Illinois, each of the disability rights advocacy organizations identified in the Parties' Notice Plan, and all nursing facilities located in Cook County, Illinois, with guidance for distribution to all nursing facility residents and their guardians, if any. All notices must be postmarked within fifteen (15) business days from the date of preliminary approval of the Consent Decree.

3. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Court will hold a fairness hearing regarding the fairness, reasonableness and adequacy of the proposed Decree on _____ at _____ a.m. All Class Members, guardians or others who wish to participate in the fairness hearing, or comment on or object to the proposed Decree, shall file with the Court a written submission by _____ and serve a copy of the submission on:

Patricia A. Werner
Access Living of
Metropolitan Chicago
115 W. Chicago Ave.
Chicago, IL 60654

The parties shall file responses to the written submissions on or before _____.

Entered: _____, 2011

Honorable Joan Humphrey Lefkow
United States District Court Judge