

Idaho Statesman, Wednesday, July 27, 2011 – by The AP

Judge says he'll rule soon in Idaho Medicaid suit

A federal judge soon will decide whether the state can move forward with its plan to consolidate some services for the developmentally disabled, and the ruling could determine the future of dozens of residential habilitation businesses across Idaho.

The state Department of Health and Welfare decided earlier this year to have just one residential habilitation company oversee all the Medicaid-covered certified family homes in Idaho - a switch expected to save about \$800,000. The department chose Community Partnerships of Idaho for the contract, and said the change would take effect Aug. 5. But Russell and Sandra Knapp sued on behalf of their ward, Jason Knapp, and Jana Shultz sued on behalf of ward Toby Shultz, in Boise's U.S. District Court.

The Knapps and Shultz provide certified family homes for their wards under a Medicaid program that aims to provide a family-style living environment for people who need assistance with daily living activities. They contend the switch to a single residential habilitation provider violates their wards' right to freely choose their own health care providers. Residential habilitation agencies provide training, oversight and quality assurance for certified family homes. Meanwhile, a group of residential habilitation providers also sued, saying they would be forced to lay off workers or close down under the state's plan and that the state was first required to get federal approval before it could change the Medicaid program.

U.S. District Judge B. Lynn Winmill, who is handling both cases, held a joint hearing Tuesday to see if the state should be temporarily barred from switching to the single provider while all the issues are worked out in court. A lot is riding on the case, Winmill said, so he planned to try to get his ruling out within the next several days. "Some may be out of business. Others who are recipients of the services will be receiving services that are less than what was provided for under Medicaid," Winmill said.

Community Partnerships of Idaho is also "in a bit of a pickle," Winmill said, because it is under contract to start providing a statewide service next week, and at this point it's not clear if the business will be allowed to do so.

The judge also questioned attorneys for the state about the health department's timing. He noted that if the agency had just sought approval from the federal Centers for Medicare and Medicaid Services when department leaders first started planning the switch, the whole thing could have been handled administratively instead of ending up in the courts. But Idaho's deputy attorney general Peg Dougherty said past experience has taught department leaders that they need to have contracts lined up and ready to go before asking the federal government to approve changes to Medicaid.

James Piotrowski, the attorney representing the certified family home providers and the residential habilitation agencies, said that allowing the state to move forward with the plan would cause irreparable harm to the businesses that will be forced out of work and to the recipients who will see a cut to their services.

Dougherty suggested that even if the Centers for Medicare and Medicaid refused to approve the switch to a single residential habilitation provider, it wouldn't change the state's decision. Instead, she said, the state would have to pay for the service entirely itself, losing the 50 percent to 67 percent federal match. It's not clear what savings, if any, the state would see from the switch if it lost its federal matching funds.