

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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WILLIAM DIXON, <i>et al.</i>		)	
	Plaintiffs,	)	
		)	Civil Action No. 1:74-cv-00285 (TFH)
	v.	)	
		)	
VINCENT C. GRAY, <i>et al.</i>		)	
Defendants.		)	
<hr/>		)	

**NOTICE TO CLASS MEMBERS OF PROPOSED SETTLEMENT AGREEMENT**

PLEASE READ THIS NOTICE CAREFULLY AND COMPLETELY. A SETTLEMENT HAS BEEN PROPOSED IN THE *DIXON* CASE THAT MAY AFFECT THE RIGHTS OF CERTAIN DISTRICT OF COLUMBIA RESIDENTS WHO USE OR NEED PUBLIC MENTAL HEALTH SERVICES.

**Why did you get this notice?**

1. The purpose of this notice is to inform you about a proposed settlement in the *Dixon* lawsuit. The settlement may affect the rights of certain people in the District who use or need public mental health services. The settlement is not final. In order for the settlement to be final, the judge in this case, the Honorable Thomas Hogan, will hear from different people and decide if the settlement is fair, reasonable, and adequate. If this notice applies to you, you will have an opportunity to tell the judge what you think about the settlement before the judge decides whether to approve it.

The rest of this notice explains the *Dixon* lawsuit, how to determine whether this lawsuit applies to you, the key terms of the proposed settlement, and how you can give the judge your opinion about the proposed settlement.

**Does this notice apply to you?**

2. This notice may apply to you if you are in a psychiatric hospital or psychiatric residential treatment facility. This notice may also apply to you if you are a resident of the District of Columbia with a serious mental illness or serious emotional disturbance and you are receiving, want to receive, or are on a waiting list for mental health services and supports in the community.

**What is this lawsuit about?**

3. The *Dixon* lawsuit was brought in 1974 by a group of people who had serious mental illnesses and wanted to receive mental health services and supports in the community and

not in a psychiatric hospital or institution. The people who brought the lawsuit, called the “named plaintiffs,” were William Dixon, Sarah Crenshaw, Oscar Holt, Robert Archibald, Willie Maw Rogers, Mary Wood, Lillian Saunders, and Betty Truitt. They filed the lawsuit on their behalf and on behalf of all other persons like them (“plaintiffs”).

4. The plaintiffs sued state and federal officials responsible for running Saint Elizabeths Hospital and responsible for the development of community-based mental health services and supports for people who need them. The people who were sued are called “defendants.” Today, the defendants are the District of Columbia, including the Mayor and the Director of the Department of Mental Health.
5. In 1975, the judge who was assigned to this case decided that the named plaintiffs and their lawyers would fairly represent all people who want to live and receive mental health services and supports in a community setting, making this case a “class action.” Because this is a class action, the people to whom this notice applies are also called “class members.” The judge also ruled in favor of the plaintiffs and directed the defendants to create a community-based mental health system so that class members could receive mental health treatment and supports in the least restrictive setting.
6. From 1980 through 1997, the parties agreed to various plans to develop a community-based mental health system. The judge approved those agreements, which are called “Consent Decrees” and have the force of law.
7. From 1997 to 2002, the judge appointed a receiver and a transitional receiver to make sure that the plans were implemented.
8. In December of 2003, the judge approved the most recent agreement between the parties. The 2003 Consent Decree contains what are known as the “Exit Criteria.” The Exit Criteria measure the District’s performance in 19 different areas related to community-based mental health services that the District agreed to improve. According to the Consent Decree, if the District met the goals in these 19 Exit Criteria, the judge would dismiss the case and end court supervision.
9. Starting in 2003, an expert was approved by the Court to ensure that the defendants did what they agreed to do. This expert, called the Court Monitor, made regular reports to the judge about the defendants’ progress in meeting their obligations, and he worked with the defendants to achieve the goals in the Exit Criteria.
10. By July 2009, the defendants had met the goals in 6 of the 19 Exit Criteria.
11. In September of 2009, the defendants filed a motion asking the judge to dismiss the case. The defendants made three primary arguments to support their motion: (1) that they had remedied the original violation of the law that plaintiffs complained of in 1974, and so it was no longer fair to require them to meet the remaining goals; (2) that they were very close to meeting many of the remaining goals (or that they were in “substantial compliance”); and (3) that children and youth were no longer class members and, so, the goals related to children/youth were no longer applicable. Plaintiffs’ lawyers opposed the

motion, arguing that the defendants had not fulfilled their obligations under the *Dixon* Consent Decree. There has not been a hearing, and the judge has not decided the motion.

12. As of the Court Monitor's report to the judge in July 2011, the defendants had completely met or came very close to meeting the goals of 15 of the 19 Exit Criteria.
13. Given the progress that the defendants made on meeting more of the goals in the Exit Criteria, the challenges to meeting the goals in the remaining four Exit Criteria, and the uncertainty of not knowing whether the judge would grant or deny the defendants' motion, the parties decided to discuss whether there was a way to resolve the remaining issues without more litigation.
14. The plaintiffs and the defendants have written down their agreement in a document called the "Settlement Agreement." Although, on September 12, 2011, the judge preliminarily approved the agreement, the settlement is NOT FINAL. The settlement will be final only after the judge approves it after holding a public hearing called a "fairness hearing." Before the judge decides to approve it, you can tell the judge if you do not like any part of it and you can ask the judge to let you speak at the fairness hearing.

### **What are the key terms in the Settlement Agreement?**

15. The Settlement Agreement requires the defendants to take several steps designed to improve the provision of community-based mental health services and supports. The defendants have roughly two years to meet their obligations under the agreement. The key terms of the Agreement are:

#### Supported Housing

- The Department of Mental Health ("DMH") will ensure that at least 300 new supported housing slots will be available to class members.
- Of those 300 new slots, at least 200 will be in the form of vouchers or subsidies for supported housing.
- DMH will also seek funding to build or renovate housing units that will be set aside for DMH use for the supported housing program.
- DMH will ensure that those who need supported housing are given the appropriate priority based on the most urgent needs.
- DMH will make a plan to learn about the need for supported housing and to learn about ways to obtain resources to meet that need. The plan will be written after obtaining the opinions and ideas of class members and their advocates.

### Supported Employment

- DMH will require Core Service Agencies (“CSAs”) to follow a specific procedure to determine whether adults with serious mental illnesses need supported employment services.
- DMH will ensure that 60% of those who need supported employment services are actually referred to those services, and DMH will increase the provision of supported employment services by 10% in the first year and 15% in the second year.

### Services to Children and Youth

- DMH will reduce the total number of bed days that children/youth spend in Psychiatric Residential Treatment Facilities (“PRTFs”) 30% by September 30, 2013. DMH will also track and report important information about children/youth in PRTFs, such as: length of stay, reasons for discharge, community-based services after discharge, and outcomes.
- DMH will increase the provision of certain evidence-based and promising practices to children/youth over two years. DMH will increase the provision of Multi-Systemic Therapy and Functional Family Therapy by 20% in the first year and 20% in the second year. Multi-Systemic Therapy and Functional Family Therapy are evidence-based practices. DMH will increase the provision of High Fidelity Wraparound services, a promising practice, by 10% in the first year and 20% in the second year. These evidence-based and promising practices are ones that have been proven to be effective in the past to help children/youth and their families manage behavioral and mental health challenges and receive appropriate treatment in the community.
- DMH will continue to conduct Community Services Reviews (“CSRs”) for children/youth for two years, and will achieve an overall system performance score of 70%. DMH will also provide coaching and targeted interventions to providers in order to improve their practices and their CSR scores.

### Continuity of Care

- DMH will ensure that at least 70% of children, youth, and adult consumers who are discharged from an inpatient psychiatric hospitalization receive a non-crisis service in a non-emergency setting no later than 7 days after discharge.
- DMH will ensure that at least 80% of children, youth, and adult consumers who are discharged from an inpatient psychiatric hospitalization receive a non-crisis service in a non-emergency setting no later than 30 days after discharge.
- DMH will ensure that CSAs follow certain performance guidelines designed to improve the follow-up mental health services provided to children, youth and adult consumers after discharge from an inpatient psychiatric hospitalization.

### Other Key Provisions

- The District will restore \$3.5 million of the funds that were cut from the DMH Fiscal Year 2012 budget.
  - The District will provide progress reports to class counsel every three months during the two-year term of the Agreement.
  - The judge will retain jurisdiction over the case to decide any disputes about compliance with the Settlement Agreement.
  - The Settlement Agreement contains more detail about each of these service-related commitments, and includes various enforcement provisions.
16. You may obtain a copy of the entire Settlement Agreement on the Department of Mental Health's website at [www.dmh.dc.gov](http://www.dmh.dc.gov).
17. Plaintiffs' lawyers believe that this Agreement is fair, reasonable, adequate, and is in the best interest of the class because it substantially increases the resources for community-based mental health services and supports, and eliminates the possibility that the judge will grant the defendants' motion to dismiss.
18. The lawyers for the plaintiff class are: Mark H. Lynch, Iris Y. González, and Christian J. Pistilli. They are lawyers at the law firm of Covington & Burling LLP. Class members do not pay any fees to these lawyers. If you have questions for the plaintiffs' lawyers, you can write to them at:

*Dixon* Settlement Inquiry  
Attention: Iris Y. González  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004

### **Now that you know the key terms of the Settlement Agreement, what can you do next?**

19. If you agree with the Settlement Agreement, you do not have to do anything.
20. If you disagree with any part of the Settlement Agreement and you want to tell the Judge, you have to do these things:
- You must write a letter to the judge telling him what you do not like about the Settlement Agreement. Include your name, address, phone number, and signature in the letter.
  - On the first page of your letter write in large or underlined letters: "Civil Action No. 1:74-cv-00285: Objections to Settlement Agreement in *Dixon v. Gray*."
  - Mail your letter to:

The Honorable Thomas F. Hogan  
U.S. District Court for the District of Columbia  
E. Barrett Prettyman U.S. Courthouse  
333 Constitution Avenue, NW  
Washington, DC 20001

- You must also mail copies of your letter to the lawyers for the plaintiffs and defendants at the following addresses:

*Dixon* Class Counsel  
Attn: Iris Y. González  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004

Attorney General for the District of  
Columbia  
Attn: Grace Graham, Chief, Equity  
Section  
441 Fourth Street, NW, 6th Floor South  
Washington, DC 20001

- If you need help writing your objections, you may ask someone to object on your behalf. The representative must state in the objection that he or she is your representative and explain the nature of the representation and the name of the class member.
  - If you have a guardian or you are under the age of 18, your parent, guardian or court-appointed representative may object on your behalf. The guardian must state in the objection that he or she is your representative, the details of the appointment by the probate court or relationship to you (if parent) and explain the nature of the representation and the name of the class member.
21. You must do all of this to be sure that the judge will read your letter. You must send your letter before December 31, 2011.
  22. DO NOT CALL THE COURT. THE COURT WILL NOT ACCEPT PHONE CALLS ABOUT THIS. YOU MUST SUBMIT YOUR OBJECTIONS IN WRITING.

**When and where will the judge decide whether to approve the Settlement Agreement?**

23. A final fairness hearing will be held on February 16, 2012, at 10:00 a.m. before the Honorable Judge Thomas Hogan of the U.S. District Court for the District of Columbia, at the E. Barrett Prettyman United States Courthouse. The courthouse is located at 333 Constitution Avenue, N.W., Washington, DC 20001. The hearing will be held in courtroom 25A.
24. At the final fairness hearing, the judge will consider whether the settlement is fair, reasonable, and adequate. The judge will consider any objections that were made according to the procedures described above. Plaintiffs' and defendants' lawyers will be available to answer any questions that the judge may have.
25. You may speak at the hearing only if you sent your objections to the judge in writing.

26. If you would like to speak at the hearing, you must also request in writing the judge's permission to speak. To do this, send a letter to the judge and send copies to the lawyers for plaintiffs and defendants with the following on the first page in large or underlined letters: "Civil Action No. 1:74-cv-00285: Notice of Intention to Appear at Final Fairness Hearing." Include your name, address, phone number, and signature in the letter.
27. If the judge decides to approve the settlement, his decision is final and the lawsuit will end. The defendants will withdraw their motion to vacate and dismiss and class members will no longer be able to petition the courts for the same thing that they sued about in the *Dixon* lawsuit.
28. If the judge does not approve the settlement, the 2003 Decree will continue in effect and the judge will decide the defendants' motion to vacate and dismiss. It is possible that, if this settlement is not approved, the judge will grant the defendants' motion and dismiss the case. If this happens, the defendants will not have any obligations under the 2003 Consent Decree or any other *Dixon* court order.