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Massachusetts commits \$1 billion to move thousands out of nursing homes in wake of lawsuit settlement

By Jason Laughlin Globe Staff, Updated April 21, 2024, 5:26 p.m.

Nursing home residents should find it dramatically easier to return to their communities after Massachusetts committed to spending \$1 billion over the next eight years for new housing and community support for people seeking to leave long-term care facilities.

The commitment was part of a settlement in a lawsuit filed in US District Court by the Massachusetts Senior Action Council and seven nursing home residents who wanted to return to their communities but could not find housing to accommodate them. The plaintiffs had physical or mental disabilities but could live outside a nursing home setting with some supports, said Steven Schwartz, a lawyer from the Center for Public Representation and one of the attorneys for the plaintiffs. He estimated that a majority of the state's 21,000 Medicaid recipients receiving long-term care at nursing facilities would be eligible to leave for community settings.

“Our very value as individual citizens [comes] from a set of community activities, working, voting, going to school, going to a baseball game,” Schwartz said in an interview. “None of these things we think of as valued experiences in our life are available living in nursing homes.”

The settlement would apply to all nursing home residents on Medicaid, who make



A hallway at Blaire House nursing home in Tewksbury. JIM DAVIS/GLOBE STAFF

up the vast majority of those in long-term residential care, Schwartz said.

Massachusetts officials framed the settlement agreement as a next step in the state's commitment to more independent living.

“Whether that means helping people find and access appropriate community-based care or housing opportunities, we want everyone to feel empowered in making their own most informed decision,” Kate Walsh, the state's Secretary of Health and Human Services, said in a statement.

The state also agreed to pay \$1.8 million for the plaintiffs' legal fees.

The state's obligations will be paid for through federal funds and money appropriated through the Legislature, according to the agreement.

The settlement is expected to receive final approval from the court this summer, Schwartz said.

In 2023, almost 75 percent of the state's spending for long-term services and supports went toward care in people's homes or community settings rather than in residential institutions, the Executive Office of Health and Human Services reported.

In a statement last week, one of the plaintiffs — a US Army veteran with diabetes, epilepsy, and who had a stroke in 2020 — described how painful it was to shift from independent living to a nursing home.

“For me, living in a nursing home is like living under martial law,” said Richard Caouette, who lives at a nursing facility in Worcester. “I am determined to return to the community and pray the Agreement will get me a new home so I can leave here.”

The reforms should allow at least 2,400 Medicaid recipients in nursing homes to transition to different residences over eight years, the state Executive Office of Health and Human Services said. The state agreed to use an array of tools, including subsidized housing, expanded access to 24-hour residential care, and \$100,000 dedicated to significant accessibility modifications to at least 120 residences, allowing some people to return to their homes.

In a key condition of the settlement, the state also committed to an education program to inform nursing home residents of their expanded living options and help those who want to move plan for their transitions. The plan would bring transition liaisons to nursing homes

weekly to meet with residents and provide visits to alternative living arrangements in the community, giving them in-person experience with other residential options. Residents would have access to culturally sensitive consultations in their native language.

“We have really tried to elevate the provisions in the settlement agreement to impact minority communities, particularly Black and brown communities,” Schwartz said.

He described the settlement as a potential paradigm shift.

“It's revolutionary,” he said.

The settlement is unique in the nation, he said, because it applies to anyone living in a nursing facility. Similar settlements, including some in Massachusetts, have expanded living options, but only for people with specific conditions or diagnoses.

The suit, *Marsters vs. Healey*, was filed in October 2022 and argued Massachusetts was in violation of a 1999 US Supreme Court ruling that determined it was discriminatory for states to not provide support and services for people who want to live outside institutions like nursing homes.

Society has shifted away from nursing care for years, Schwartz said. Technological advances have made medical care and support outside an institution more available, and governments have increasingly dedicated more money to alternative housing options.

But the state's 349 nursing facilities provide a key resource in the state, said

Tara Gregorio, president of the Massachusetts Senior Care Association, which represents nursing homes and other institutions that deliver care to seniors and those with disabilities. She declined to say what the impact of the settlement could be on the nursing home industry but estimated the demand for long-term residential care would grow over the next 10 years due to a projected 40 percent increase in the population of people 85 and older. Some of the seniors who need long-term nursing care would not be able to live in community settings or may not want to.

“It is critical that these core services be fully funded to ensure the safety and well-being of our residents and to allow us to continue to invest in and grow our dedicated workforce,” she said in an emailed statement.

Of the seven people who filed the suit less than two years ago, one, John Simmons, has died. Another was able to find housing in the community and two more are in the process of transitioning out of nursing homes, Schwartz said. Another three want to leave their nursing homes.

“For the past two years, I have been confined to a nursing facility where I can’t do anything for myself,” said Lorraine Simpson, a plaintiff in the process of leaving a Worcester nursing facility, in a statement. “I can’t wait to take care of my own home, spend time with my family, and cook for them again.”

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