

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

**WILLIAM R. HAMPE**, by and through his mother / guardian Jill Hampe, **RICHARD L. WINFREY, III**, and **ADAM CALE, OLIVIA WELTER** by and through her parents/guardians John Welter and Tamara Welter, **PHILLIP BARON**, by and through his mother/guardian Barbara Baron, **JESSICA L. LYTLE**, by and through her mother/guardian Judith A. Lytle, **JACOB STRACKA**, by and through his parents/guardians, David Stracka and Nicole Stracka, and **CHARLES STOUT**, individually and on behalf of a class,

Plaintiffs,

vs.

**JULIE HAMOS**, in her official capacity as Director of the Illinois Department of Healthcare and Family Services,  
  
Defendant.

No. 10 C 3121

Judge Ruben Castillo

Magistrate Judge Arlander Keys

**LEGAL NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING**

**IF 1) YOU ARE NO LONGER ELIGIBLE FOR THE ILLINOIS MEDICALLY FRAGILE, TECHNOLOGY DEPENDENT (“MF/TD”) WAIVER PROGRAM BECAUSE YOU AGED OUT OF MF/TD WAIVER OR 2) YOU WILL NO LONGER BE ELIGIBLE FOR THE MF/TD WAIVER PROGRAM WHEN YOU REACH THE AGE OF 21, YOUR RIGHTS MAY BE AFFECTED BY A CLASS ACTION SETTLEMENT.**

A consent decree (settlement) has been proposed in a class action lawsuit for individuals who age out of the Medically Fragile, Technology Dependent (“MF/TD”) Waiver Program upon turning 21 years old and who are no longer eligible for the MF/TD Waiver Program.

The United States District Court for the Northern District of Illinois authorized this notice. The Court will have a hearing to decide whether to approve the settlement.

**Who is included?**

You are a class member if you:

- (1) Are, were, or will be enrolled in the MF/TD Waiver Program; and
- (2) when obtaining the age of 21 years, were or will be subjected to reduced Medicaid funding which reduced or reduces the medical level of care you had been or are receiving prior to obtaining 21 years.

**What is this case about?**

The lawsuit claimed that the Director of the Illinois Department of Healthcare and Family Services (“HFS”) violated federal laws when individuals, who upon attaining 21 years of age, age out of the MF/TD Waiver and into a different waiver program that provides substantially less funding. The lawsuit alleges that without the funding provided by the MF/TD Waiver program, these individuals will have to be institutionalized or hospitalized to provide for their medical needs. Defendant Hamos denied the allegations of the Plaintiffs’ lawsuit and denied any violation of federal law. This lawsuit is not about eligibility and services in the MF/TD Waiver program for those who have not attained the age of 21. Both sides have agreed to a settlement to resolve the case and continue to provide medically necessary benefits to Class Members. But, the settlement does not require coverage or funding of services that the individual did not receive, or for which the individual was not eligible, prior to attaining the age of 21. Nothing herein shall be deemed an admission of fault of any kind by the Defendant.

A copy of the Consent Decree (settlement) is available on the website of the Illinois Department of Healthcare and Family Services: <http://www2.illinois.gov/hfs/PublicInvolvement/Hampe/Page/default.asp> and on the website of Plaintiffs’ Attorney, Robert H. Farley, Jr.: [www.farley1.com](http://www.farley1.com).

**What does the settlement provide?**

1. The settlement requires that:
  - a. a class member’s need, level, and amount of medical services will be based upon medical necessity, not the chronological age of the class member;
  - b. resources will be allocated based on medical need and class members will have the option to choose federally approved services, including but not limited to licensed nursing and/or personal attendant services, and service plans will address the numbers and levels of service hours;
  - c. class members will be assessed, will have service plans established, and will have the right to appeal any service planning issue under HFS’ procedures;
  - d. class members are not required to be covered under any specific program, including but not limited to the Home Services Program as it exists today; however, a class member may choose to participate in a specific program, including the Home Services Program, as an alternative to receiving the settlement’s benefits;

- e. medical case management will be available beyond age 21 for continuity of care upon transition from children to adult services.
2. This settlement does not change the MF/TD Waiver program for individuals prior to the date they turn 21 years-old.
3. The settlement does not require coverage or funding of services that the class member did not receive, or for which the class member was not eligible, prior to attaining the age of 21.
4. Upon entry of the Consent Decree, any Temporary Restraining Order (TRO) or Preliminary Injunction shall be dissolved by the Court. Class members will be initially assessed as follows:
  - a. at 6 months prior to turning 21 years of age;
  - b. within 120 days from the date of the Consent Decree for any class members with a TRO or preliminary injunction in place;
  - c. within 120 days of a request for individuals who were served under the MF/TD Waiver and who have turned 21 years old and who do not have a TRO in place.

HFS shall review the level of services identified in any TRO or Preliminary Injunction through the completion of an assessment and establishment of a new service plan via the level of care tool. HFS will agree to maintain the level of services identified in any TRO or Preliminary Injunction until the completion of an assessment and establishment of a new service plan.

5. This Consent Decree shall be in effect for three years from the date of entry. The Court shall retain jurisdiction to enforce the terms of the Consent Decree during its duration, after which time the case shall be dismissed with prejudice.
6. Defendant will pay costs, including attorneys' fees, to Class Counsel.

### **Class Members' Rights**

All class members have the right to object to the Proposed Consent Decree and to give reasons why they believe the court should not approve it. The Court will consider those views. To object, you must send your written objection to the Clerk of the Court, Dirksen Federal Building, 219 S. Dearborn Street, 20<sup>th</sup> Floor, Chicago, IL 60604. The objection must be *received* by the Clerk of the Court no later than September 19, 2013. You must also mail copies of your objection to each of the attorneys listed below. The objection must be *received* by each attorney no later than September 19, 2013:

Robert H. Farley, Jr., Ltd.  
1155 S. Washington St.  
Naperville, Illinois 60540  
Tel: (630) 369-0103

*Co-Counsel for Class*

Karen Konieczny  
Assistant Attorney General  
160 North LaSalle Street, Suite N-1000  
Chicago, IL 60601  
Tel: (312) 793-2380  
*Defense Counsel*

Any objection must include the name and number of the case (*Hampe v. Hamos*, No. 10 C 3121), as well as a statement of the reasons (in no more than 15 pages) why you believe the Court should not approve the Consent Decree. Be sure to include your name, address, telephone number, and your signature. Please note that it is not sufficient to simply state that you object. *You must state reasons why the Decree should not be approved.*

### **The Court's Fairness Hearing**

The Court will hold a hearing to consider whether to approve the settlement. The Fairness Hearing will be held before the Honorable Ruben Castillo, United States District Court Judge, in the Dirksen Federal Building, 219 S. Dearborn Street, Room 2541, Chicago, IL 60604 on October 3 2013, at 1:30 p.m. At this hearing, the Court will consider whether the proposed Consent Decree is fair, reasonable and adequate to the Class. The Court will consider any objections made according to the procedures described above. You may, but do not have to, attend the Fairness Hearing. The parties' lawyers will answer questions Judge Castillo may have. If you send an objection, you do not have to come to Court to talk about it. As long as you delivered your written objection on time, the Court will consider it. 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, you must send a "Notice of Intention to Appear in *Hampe v. Hamos*, Case No. 10 C 3121" to the Court and the parties. Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be received by the Clerk of the Court no later than September 19, 2013. You must also mail copies of your Notice of Intention to Appear to the Attorney for Plaintiffs and the Attorney for Defendant listed above, at the addresses set forth above.

#### Lawyers Representing the Class

Robert H. Farley, Jr.  
Robert H. Farley, Jr., Ltd.  
1155 S. Washington St., Ste. 201  
Naperville, Illinois 60540

Mary Denise Cahill  
Cahill & Associates  
1155 S. Washington St., Ste 106  
Naperville, Illinois 60540

These lawyers are called "Class Counsel." Class members will not be charged for these lawyers' fees. If you have any questions, contact Class Counsel. Do not contact the Judge, Clerk of the Court, or the Defendant's counsel.

DATED: July 9, 2013

  
The Honorable Ruben Castillo, Chief Judge  
United States District Court