UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

KATIE A., *et al.,* individually and on behalf of others similarly situated, Plaintiffs, v. **TOBY DOUGLAS,** Director of California Department of Health Care Services; *et al.,* Defendants.	Case No. CV-02-05662 AHM (Shx) **NOTICE OF PROPOSED SETTLEMENT AGREEMENT AND SETTLEMENT HEARING**

The proposed settlement may affect your rights. Please read carefully.

PURPOSE OF THIS NOTICE

This notice informs you about the proposed settlement of claims in a class action lawsuit against Toby Douglas, Director of the California Department of Health Care Services (CDHCS), and Will Lightbourne, Director of the California Department of Social Services (CDSS). This notice summarizes the settlement and sets forth what you must do if you object to the terms of the settlement. You are receiving this notice because you have been identified either as a possible member of the class or as a person who may be concerned with the interests of possible members of the class.

BRIEF DESCRIPTION OF THE LAWSUIT

This class action suit has sought to improve the mental health and other supportive services available to children and youth who are in foster care in California or who are at imminent risk of placement in foster care. The lawsuit was filed on July 18, 2002, in federal court in Los Angeles.[1] The lawsuit alleges violations of federal Medicaid laws, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and California Government Code Section 11135, as well as the Due Process Clauses of the federal and state Constitutions. *The lawsuit does not seek to recover any monetary damages.* The State Defendants deny any wrongdoing.

DESCRIPTION OF THE CLASS

This case has been certified as a class action against the State Defendants on behalf of a class of children in California who:

(a) Are in foster care or are at imminent risk of foster care placement, and

(b) Have a mental illness or condition that has been documented or, had an assessment already been conducted, would have been documented, and

(c) Who need individualized mental health services, including but not

[1] Plaintiffs also sued Los Angeles County and reached a separate settlement on behalf of a County-wide class with Los Angeles County in 2003.

limited to professionally acceptable assessments, behavioral support and case management services, family support, crisis support, therapeutic foster care, and other medically necessary services in the home or in a home-like setting, to treat or ameliorate their illness or condition.

For the purposes of this case, "imminent risk of foster care placement" means that within the last 180 days a child has been participating in voluntary family maintenance services or voluntary family reunification placements and/or has been the subject of either a telephone call to the Child Protective Services hotline or some other documented communication made to a local Child Protective Services agency regarding suspicions of abuse, neglect or abandonment.

SUMMARY OF THE TERMS OF THE SETTLEMENT

The following is a summary of the terms of the settlement. CDHCS, CDSS and the California Department of Mental Health (CDMH) agree to:

- Establish a shared management structure to develop policy and program direction consistent with a "core practice model" designed to provide child welfare and mental health services to class members in a coordinated, comprehensive and community-based fashion. This core practice model includes values, goals and principles that promote working with families and care providers

as a team. For children with intensive or complex needs, the core practice model also includes the delivery of services through a Child and Family Team.

- Develop a process to identify class members in order to link them firmly to necessary mental health services.

- Facilitate the provision of Intensive Care Coordination (ICC) and Intensive Home Based Services (IHBS) to certain class members with more intensive mental health needs.

- Determine the extent to which Therapeutic Foster Care ("TFC") is covered under the Medicaid Act and thereafter facilitate the provision of the Medicaid- covered services of TFC to certain class members with intensive health needs. A description of ICC, IHBS, and TFC is enclosed with this notice for your information. ICC, IHBS and TFC are typically provided to children and youth in their homes, foster homes, or communities so that they can avoid being hospitalized or placed in institutions or other group care facilities. In delivering these services, providers work as a team with the child and family and with representatives of involved public agencies and coordinate the delivery of mental health services and other supports.

- Develop and circulate a manual that will inform and instruct providers on ICC and IHBS, and TFC services to the extent they are covered by Medi-Cal, and

describe how ICC and IHBS and TFC should be provided consistent with the core practice model. Also develop an implementation plan that addresses how ICC, IHBS, and TFC will be brought to scale statewide.

- Develop and endorse training curriculum to support the core practice model for use by counties and providers.

- Establish a team to collect data on service delivery and outcomes, including from ICC, IHBS and TFC.

- *Note that these services may not be immediately available because State Defendants and CDMH will need several months to develop a plan to implement the settlement.*

- Pay a total of $3.75 million to Class Counsel for all their past work, costs and expenses incurred in this case and for any future attorneys' fees, costs and expenses during the period of implementation and ongoing court jurisdiction over this lawsuit.

The Court will retain jurisdiction over this lawsuit until 36 months after court approval of the Settlement Agreement, at which time the Court's jurisdiction will expire.

PROCEDURES FOR OBJECTING TO THE SETTLEMENT

IF YOU AGREE WITH THE PROPOSED SETTLEMENT WITH THE STATE DEFENDANTS, YOU DO NOT NEED TO TAKE ANY ACTION. You may be present at the public hearing on the proposed settlement as stated below.

IF YOU HAVE OBJECTIONS TO THE PROPOSED SETTLEMENT, THEN PLEASE MAIL THESE OBJECTIONS NO LATER THAN THE DEADLINE OF November 18, 2011, to: (1) Clerk of the District Court for the Central District of California, 312 N. Spring St., Los Angeles, California 90012, (2) Ernest Martinez, Deputy Attorney General, Office of the Attorney General, State of California, 300 South Spring Street, Suite 1700, Los Angeles, California 90013; and (3) *Katie A.* Counsel, P.O. Box 70040, Los Angeles, CA 90070. Your objection must list your name and address and, if applicable, the name, address and telephone number of your attorney. Your objection must be accompanied by any supporting papers or brief you intend to submit in support of your objection and the specific grounds for the objection. If you do not mail the objections to the Clerk of the Court and to counsel for the parties by the deadline of November 18, 2011, then you will be barred from making any objections (whether by written objection, appearance at the fairness hearing, appeal or otherwise) to the settlement.

HEARING ON THE FAIRNESS OF THE SETTLEMENT INCLUDING REASONABLENESS OF ATTORNEYS' FEES

The Court will hold a hearing to review the proposed settlement and to decide whether the agreement is fair, reasonable and adequate and should be finally approved on December 1, 2011 at 2:00 p.m. (the "Fairness Hearing"). The Fairness Hearing will be held in the Courtroom of the Honorable A. Howard Matz, United States District Judge, located in Court Room No. 14 at the United States District Court, 312 N. Spring St., Los Angeles, California 90012. *You may attend this hearing and be given an opportunity to state whether you agree with or object to the proposed settlement.* If the Court approves the settlement agreement with State Defendants, it will be binding upon all members of the class.

The proposed settlement agreement contains a provision for an award of Attorneys' Fees, costs and litigation expenses to Class Counsel. On the same date and at the same location as the Fairness Hearing, either during the Fairness Hearing or immediately thereafter, the Court will also hear any objections with respect to this award of fees, costs and litigation expenses to Class Counsel ("Attorneys' Fees Hearing"). The application for Attorneys' Fees, costs and litigation expenses shall be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the other terms of the proposed Settlement

Agreement provided for herein.

The Fairness Hearing and any separately ordered Attorneys' Fee Hearing may be rescheduled by the Court.

OBTAINING ADDITIONAL INFORMATION

A copy of the entire settlement agreement and accompanying proposed Stipulated Judgment can be found at county offices providing mental health services to children and youth, and county offices providing child welfare services, and at the following websites: www.dmh.ca.gov; www.dhcs.ca.gov; www.dss.cahwnet.gov.

The settlement agreement, pleadings and other records of this lawsuit may also be examined and copied during regular office hours at the United States District Court, Central District of California, Clerk of the Court, 312 N. Spring Street, Los Angeles, California 90012.

If you have questions about this notice or the settlement, you may also contact lawyers for the children and young adults by: (1) calling the following toll-free number – 1-800-405-8759– and leaving a message, (2) sending a letter addressed to *Katie A.* Counsel, P.O. Box 70040, Los Angeles, CA 90070, or (3) sending an email to: **KatieA.Settlement@gmail.com.**

Any questions you may have concerning the matters contained in this notice or changes in address should not be presented to the Court.

Intensive Home-Based Mental Health Services

Intensive Home-Based Services (IHBS) are individualized, strength-based interventions designed to ameliorate mental health conditions that interfere with a child's functioning. Interventions are aimed at helping the child build skills necessary for successful functioning in the home and community and improving the child's family's ability to help the youth successfully function in the home and community.

IHBS are delivered according to an individualized treatment plan developed by a care planning team (see Intensive Care Coordination). The care planning team develops goals and objectives for all life domains in which the child's mental health condition produces impaired functioning, including family life, community life, education, vocation, and independent living, and identifies the specific interventions that will be implemented to meet those goals and objectives. The goals and objectives should seek to maximize the child's ability to live and participate in the community and to function independently, including through building social, communication, behavioral, and basic living skills. Providers of intensive home-based services should engage the child in community activities where the child has an opportunity to work towards identified goals and objectives in a natural setting. Phone contact and consultation may be provided as part of the service.

IHBS includes, but is not limited to:

- Educating the child's family about, and training the family in managing, the child's disorder;
- Medically necessary skill-based remediation of behaviors, including developing and implementing a behavioral plan with positive behavioral supports and modeling for the child's family and others how to implement behavioral strategies;
- Improving self-care, including by addressing behaviors and social skills deficits that interfere with daily living tasks and with avoiding exploitation by others;
- Improving self-management of symptoms, including assisting with self-administration of medications;
- Improving social decorum, including by addressing social skills deficits and anger management;

- Supporting the development and maintenance of social support networks and the use of community resources;
- Supporting employment objectives, by identifying and addressing behaviors that interfere with seeking and maintaining a job;
- Supporting educational objectives, through identifying and addressing behaviors that interfere with succeeding in an academic program in the community; and
- Supporting independent living objectives, by identifying and addressing behaviors that interfere with seeking and maintaining housing and living independently.

IHBS are highly effective in preventing a child being removed from home (biological, foster, or adoptive) through admission to an inpatient hospital, residential treatment facility or other residential treatment setting.

Settings: IHBS may be provided in any setting where the child is naturally located, including the home (biological, foster or adoptive), schools, recreational settings, child care centers, and other community settings. *Availability:* IBHS are available wherever and whenever needed, including in evenings and on weekends. *Providers:* IHBS are typically provided by paraprofessionals under clinical supervision. Peers, including parent partners, may provide IHBS. More complex cases may require service delivery by a clinician rather than a paraprofessional.

Intensive Care Coordination

Intensive Care Coordination (ICC) is a service that is responsible for facilitating assessment, care planning and coordination of services, including urgent services [for children/ youth who meet the *Katie A.* class criteria].

Intensive Care Coordination (ICC) provides:

- A single point of accountability for ensuring that medically necessary services are accessed, coordinated, and delivered in a strength-based, individualized, family/youth-driven, and culturally, and linguistically relevant manner;
- Services and supports that are guided by the needs of the youth;

- Facilitation of a collaborative relationship among a youth, his/her family and involved child-serving systems;
- Support the parent/caregiver in meeting their youth's needs;
- A care planning process ensures that a care coordinator organizes and matches care across providers and child serving systems to allow the youth to be served in their home community; and
- Facilitated development of the Child and Family Planning Team (CFT).[1]

ICC service components consists of:

Assessment: The CFT completes a strength-based, needs driven, comprehensive assessment to organize and guide the development of an Individual Care Plan (ICP) and a risk management/safety plan. The assessment process determines the needs of the youth for any medical, educational, social, mental health, or other services. ICC may also include the planning and coordination of urgent needs before the comprehensive assessment is completed. The initial assessment will be reviewed as necessary, but at least every 90 days.

Planning: Development of an Individual Care Plan: Using the information collected through an assessment, the care coordinator convenes and facilitates the CFT meetings and the CFT develops a child- and family-centered Individual Care Plan (ICP) that specifies the goals and actions to address the medical, educational, social, mental health, or other services needed by the youth and family. The care coordinator works directly with the youth, the family and others significant to the child to identify strengths and needs of the youth and family, and to develop a plan for meeting those needs and goals.

Referral, monitoring and related activities:

- works directly with the youth and family to implement elements of the ICP;
- prepares, monitors, and modifies the ICP in concert with the CFT; to determine whether services are being provided in accordance with the ICP; whether services in the ICP are adequate; and whether these are changes in

[1] The CFT includes, as appropriate, both formal supports, such as the care coordinator, providers, case managers from child-serving agencies, and natural supports, such as family members, neighbors, friends, and clergy.

the needs or status of the youth and if so, adjusting the plan of care as necessary, in concert with the CFT;

- will identify, actively assist the youth and family to obtain and monitor the delivery of available services including medical, educational, mental health, social, therapeutic, or other services.

Transition:

- develops with the CFT a transition plan when the youth has achieved goals of the ICP; and
- collaborates with the other service providers and agencies on the behalf of the youth and family.

Settings

ICC may be provided to children living and receiving services in the community (including in TFC) as well as to children who are currently in a hospital, group home, or other congregate or institutional placement as part of discharge planning.

Therapeutic Foster Care

[Under the Settlement Agreement, a determination still needs to be made as to the extent that Therapeutic Foster Care (TFC) is covered under the Medicaid Act).]

Therapeutic foster care (TFC) is an intensive, individualized health service provided to a child in a family setting, utilizing specially trained and intensively supervised foster parents.

TFC programs:

(a) place a child singly, or at most in pairs, with a foster parent who is carefully selected, trained, and supervised and matched with the child's needs;

(b) create, through a team approach, an individualized treatment plan that builds on the child's strengths;

(c) empower the therapeutic foster parent to act as a central agent in implementing the child's treatment plan;

(d) provide intensive oversight of the child's treatment, often through daily contact with the foster parent;

(e) make available an array of therapeutic interventions to the child, the child's

family, and the foster family (interventions may include behavioral support services for the child, crisis planning and intervention, coaching and education for the foster parent and the child's family, and medication monitoring); and

(f) enable the child to successfully transition from therapeutic foster care to placement with the child's family or alternative family placement by continuing to provide therapeutic interventions.