

EDITORIAL

State commits to moving 2,400 people out of nursing homes

Court settlement will help people with disabilities move into the community.

By [The Editorial Board](#) Updated April 17, 2024, 4:00 a.m.

Occasionally, a lawsuit prompts a policy shift that will improve thousands of lives. That's just what happened Tuesday.

Governor Maura Healey's Executive Office of Health and Human Services moved to settle a lawsuit, *Marsters v. Healey*, with a promise to move at least 2,400 people with disabilities from nursing homes back into the community over the next eight years. State officials estimate they will spend \$1 billion over that period on housing, counseling, and other services to help people leave nursing facilities.

Healey, in a statement, called the settlement "a natural next step forward as our administration expands community living options available for individuals residing in nursing facilities."

Steven Schwartz, special counsel with the Center for Public Representation, who represented the plaintiffs, called the agreement "spectacular" and said it will make a big difference in giving nursing home residents the support and the information they need to move out. "So many people prefer to remain in their own homes with families or with communities," Schwartz said. "Once they're given both information about choices and real options, I think a very significant percentage of people in nursing homes will likely choose to be in the community."

In the long term, there will likely be money saved as people move out of nursing homes into less expensive forms of care, like community-based supports.

The Massachusetts Senior Action Council and a group of nursing home residents with physical and mental disabilities sued the state in 2022. They said the state

was violating the Americans with Disabilities Act by unnecessarily institutionalizing people with disabilities rather than providing sufficient home- and community-based services.

Similar lawsuits filed under previous governors had resulted in the transition of thousands of people with brain injuries and intellectual and developmental disabilities from nursing homes into community settings, and this board had urged the Healey administration to reach a similar settlement.

The 54-page settlement agreement filed in US District Court in Massachusetts, which still needs a judge's approval, includes serious commitments by the administration to help move people with disabilities who want to leave nursing homes into their communities.

The administration will expand programs that provide transition counseling to nursing home residents, advising them of their rights and options and helping them develop plans to move. Every nursing home will be assigned a team to provide counseling and casework. Residents will be given help locating housing and offered opportunities to visit community-based programs and service providers. Services will be provided in a "linguistically and culturally competent" way.

Of course, moving back into the community is only possible if there's a place to go. With Massachusetts facing a housing crisis that will likely make it hard for seniors to find new homes, the state has committed to expanding funding for housing programs for this population. It will add beds in group homes and expand supportive living services. It will add 800 new subsidized housing opportunities, including a mix of funding to support the development of new units and new vouchers to help people afford existing units. There will be a rental voucher program designated specifically for people with disabilities seeking to transition to the community. Money will be earmarked for home modifications for people moving into their own or a family member's home.

The US Department of Justice is also investigating whether the state violated the Americans with Disabilities Act by not transitioning people out of institutions, and the court settlement, if approved, could likely help resolve that investigation as well.

The challenge with any legal settlement is that while the administration can agree to a settlement, the Legislature must fund it. Lawmakers have generally been committed to funding legal settlements, and they should expeditiously fund this one in accordance with any budget requests Healey submits.

John Simmons, a 73-year-old man with multiple medical conditions, used to live independently in Boston with a subsidized housing voucher. He ran his own errands, occasionally ate out, spent time with family and friends, and attended his medical appointments, according to a court brief. But after multiple hospitalizations, he lost the housing voucher, moved in with his sister in Fall River, then landed in a nursing home following another hospitalization. In the nursing home, Simmons' depression increased, and he missed spending time outdoors. He applied for a state waiver that would have given him support to live independently in the community, but there was a long waiting list.

Simmons was the lead plaintiff of the lawsuit when it was filed. He died in the nursing home waiting to move. But his legacy will live on when others in similar positions are able to return to their homes and their communities through the resources made available by this settlement.

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