



Arizona State Senate **Background Brief**

September 25, 2007

Note to Reader:

The Senate Research Staff provides nonpartisan, objective legislative research, policy analysis and related assistance to the members of the Arizona State Senate. The *Research Briefs* series, which includes the *Issue Brief*, *Background Brief* and *Issue Paper*, is intended to introduce a reader to various legislatively related issues and provide useful resources to assist the reader in learning more on a given topic. Because of frequent legislative and executive activity, topics may undergo frequent changes. Additionally, nothing in the *Brief* should be used to draw conclusions on the legality of an issue.

ARNOLD v. SARN

In 1981, a class action suit was filed alleging that the state, through the Department of Health Services (DHS), and Maricopa County did not fund a comprehensive mental health system as required by state statute. The lawsuit, *Arnold v. Sarn*, sought to enforce the community mental health residential treatment system (A.R.S. §§ 36-550 through 36-550.08) on behalf of persons with a serious mental illness in Maricopa County. In 1986, the trial court entered judgment holding that the state had violated its statutory duty, which the Supreme Court affirmed in 1989.

A plan to implement the court's findings was developed in 1991 and, in 1996, the parties negotiated criteria to exit the lawsuit. The exit stipulation is a method for determining when the defendants have established a system sufficient to satisfy the requirements of the state statutes as interpreted by the Arizona courts. The exit stipulation defines class members and priority class members; sets restrictions and requirements at the Arizona State Hospital; and establishes restrictions on the use of supervisory care homes, quality management requirements, budget requests, service planning, case management, and vocational/rehabilitation and housing services requirements.

In 1998, in order to avoid further litigation regarding DHS's compliance with the exit stipulation, the parties negotiated a supplemental agreement prioritizing the needed services. The supplemental agreement required DHS to evaluate the needs within the mental health system and develop strategic plans to increase provider capacity in vocational, housing and substance abuse services. The supplemental agreement also required the Office of the Monitor to conduct independent reviews to determine compliance with the lawsuit.

In July 1999, an independent report was released estimating the total annual cost of complying with the lawsuit in Maricopa County at \$240 million, and a total of \$528 million in federal, state and county monies to support a statewide system. However, the final cost of *Arnold v. Sarn* is unknown. The cost to provide services rises annually. Funding for services has increased since the lawsuit as the state continues to identify needs for serving adults with serious mental illness. For instance, both Title XIX (Medicaid) and state only non-Title XIX monies have been utilized to meet obligations. In addition, the Legislature appropriated \$50

million in FY 2000-2001 from the tobacco litigation settlement for the development of programs and services for individuals with serious mental illness. Proposition 204, passed by Arizona voters in November 2000, raised the income eligibility level for the Title XIX Medicaid program from 36 percent of the federal poverty level to 100 percent. As a result, approximately 25 percent of the state-only funded seriously mentally ill population became eligible for the Medicaid program, which receives federal matching funds.

In 2004, an audit released by the Office of the Monitor showed that Arizona was out of compliance with the requirements of *Arnold v. Sarn*. The audit found that oversight activities of ValueOptions (Maricopa County's contractual behavioral health services administrator) and the DHS Division of Behavioral Health Services were not effective.¹

DHS developed a corrective action plan to address these findings, which included proactive and concurrent oversight of the treatment of seriously mentally ill individuals by ValueOptions. In addition, the parties negotiated a final exit stipulation for the lawsuit that included estimated completion dates for numerous requirements that range from 2004 to 2008. The stipulation also included requirements for DHS to request specified funding increases for services to individuals with serious mental illness in Maricopa County. A Maricopa County Superior Court judge agreed to the completion dates identified in the plan. The Office of the Monitor continues to track DHS's compliance with the stipulation and the parties may enter into additional stipulations as progress toward the exit criteria continues.

In FY 2006-2007, the Legislature added a footnote to the budget that requires DHS to report quarterly to the Joint Legislative Budget Committee (JLBC) on the department's progress toward settling the lawsuit. At the August 16, 2007, JLBC meeting DHS reported that it still expects to meet the June 2008 deadline for completing the exit stipulation criteria and exiting the lawsuit. The Court Monitor will perform an additional audit in October 2007, during the transition of the Maricopa County Regional Behavioral Health Authority contract from ValueOptions to Magellan.

ADDITIONAL RESOURCES

- Department of Health Services
Division of Behavioral Health Services
602-364-4558
www.azdhs.gov/
- *Arnold v. Sarn* Documents, Division of Behavioral Health Services
<http://www.azdhs.gov/bhs/sarns.htm>

¹ Beginning in September 2007, Magellan Health Services (Magellan) assumed contractual responsibility for behavioral health services in Maricopa County and, accordingly, responsibility for meeting the exit criteria for *Arnold v. Sarn*.