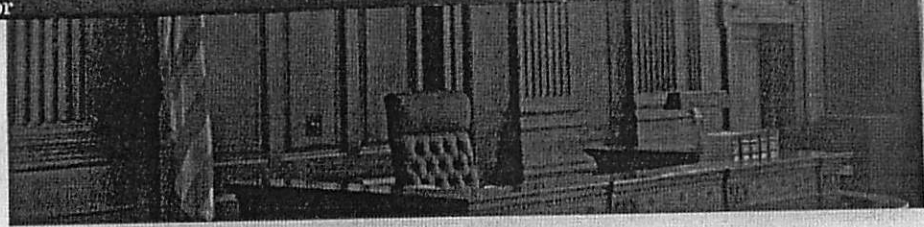


Chris Christie, Governor
Kim Guadagno, Lt. Governor

Jennifer Velez, Commissioner
David C. Alexander, Director



Rehabilitation Center Enters Into a Consent Judgment for Failure to Provide Interpreters to a Deaf Patient

Submitted by Clara Smit Esq.

In one of the first cases of its kind against a rehabilitation facility, Whiting Healthcare Center has agreed to payment of an undisclosed amount of monetary damages, attorneys' fees and injunctive relief in the form of a Consent Judgment. This judgment will provide widespread injunctive relief for all future deaf residents at their facility.

Marilyn Svenson filed a complaint in Federal Court against Whiting Healthcare Center for the failure to provide interpreters, and telecommunication devices when she was a resident at their facility. Whiting Healthcare Center (WHC) will now utilize certain protocol to ensure that reasonable accommodation will be provided to future deaf residents under the Americans with Disabilities Act, New Jersey Law Against Discrimination and Rehabilitation Act. These Consent Judgments are believed to be among the most comprehensive agreements with Rehabilitation Facilities and have been used at hospitals all over the country.

Marilyn sued WHC for failure to provide interpreters and telecommunication devices when she was a resident there for three lengthy admissions in 2008. Marilyn was transferred from Community Medical Center, after undergoing knee replacement surgery, in order to WHC to receive physical therapy services.

Throughout Marilyn's admission to WHC she was only provided with an interpreter on two occasions. Despite repeated, numerous requests in writing and verbally to the nursing staff, the social worker and the head director at WHC, Marilyn was not

provided with an interpreter on all other occasions, leaving her with little ability to fully communicate. Further, Marilyn was never provided with a TTY so she could contact her family.

WHC also attempted to use Marilyn's daughter to try and facilitate communication during her mother's residency despite the fact that family members are not qualified to interpret (due to the failure of the rehabilitation facility to provide a qualified interpreter). After experiencing the terror, frustration and emotional anguish of receiving treatment without understanding much of what went on around her; Marilyn decided to sue Whiting Healthcare so this would not happen to other deaf residents.

Marilyn was represented in the case by Clara R. Smit, an attorney of East Brunswick, New Jersey, who specializes in serving the deaf. Mr. Charles Svenson, Marilyn's husband, and Ms. Smit are extremely pleased and excited with the settlement and hope to see more major changes in rehabilitation facilities across the country, changes in their policies and practices as more and more of these cases are brought forth. Although the ADA and the Rehabilitation Act, specifically require that a rehabilitation center provide reasonable accommodation, such as interpreters to the deaf when necessary for effective communication, it is only in the past couple of years that deaf people have begun to feel empowered to start bringing these lawsuits. For additional information, please contact Clara R. Smit, Esquire at (732) 843-6600.