

**The Arc of Minnesota
Rebasing Update
January 9, 2004**

Yesterday Judge Tunnheim issued his decision. He agreed with many of the arguments made by the Minnesota Disability Law Center on behalf the three Arc families and The Arc of Minnesota and Judge Tunnheim granted a preliminary injunction yesterday to protect the rights of the individual plaintiffs or families.

However, Judge Tunnheim did dissolve the Temporary Restraining Order stopping cuts and rebasing. While the court did not prevent the state from moving forward with its rebasing plan, the court recognized the plan's flaws and warned: ***"Indeed many recipients who are not part of this lawsuit likely would have valid claims against the state. If defendants intend to move forward and reimplement this budget-cutting program, the court urges a more thoughtful process."***

The Judge also wrote that: ***"It is obvious to the Court that defendants' original rebase program did not adequately consider the health and safety of the Minnesota citizens who receive services under the waiver program or the real costs of providing such services."***

We feel this is a positive decision because it recognizes the serious harm done to the individuals represented in the case. There is also strong language about the Commissioner's responsibilities to direct the program and provide for the health, safety and welfare of waiver recipients. In another section of the decision Judge Tunheim states: ***"That Congress has allowed states to limit the number of people served by waivers does not mean that Congress meant to allow states to underserve those actually on the waiver, or treat waiver recipients differently, or excuse states from assuring the health and safety of waiver recipients. Most importantly, it does not evidence that Congress did not intend Medicaid recipients to benefit from the Medicaid program."***

What Happens Next:

The lawsuit will proceed with a projected court date in 2005.

DHS will have to determine its next steps while considering the courts strong statements about the process. If you are notified by your county that they are implementing service reductions as a result of DHS proceeding with rebasing, individual wavier recipients will have the right to appeal. The appeal system will provide immediate protection from service reductions because budgets cannot be cut until the appeal is heard. For details on how to appeal go to www.arcminnesota.com and click on "How to Appeal Cuts in Your Waivered Services." Those appeals that were on hold can now proceed. If you need assistance please contact your local Arc chapter or the Minnesota Disability Law Center.

The Minnesota Disability Law Center is continuing to evaluate the Judge's decision and will be deciding on any next steps.

The court decision be available on line by Monday or Tuesday at <http://www.mnd.uscourts.gov/> (go to "court rulings" on the left-side menu, pick district of Minnesota, and search by judge and or date/time period. The decision is not up yet but should be on Monday or Tuesday).

There are many unknowns related to this decision and we will try to keep you informed as information becomes available.