

Winston Pro Bono Team Secures Full Settlement for Client Within 48 Hours of Filing Federal Lawsuit

JULY 27, 2016

A Winston & Strawn New York-based team, along with the Legal Aid Society, obtained a full settlement for a pro bono client in need of home health services within 48 hours of filing a federal lawsuit. The client, a 41-year-old, wheelchair-bound Medicaid recipient, suffers from a debilitating and degenerative genetic neuro-muscular disorder (Friedreich's ataxia) that renders her unable to perform most of the activities of daily living. Most importantly, she is too weak to transfer herself to the toilet, which is particularly problematic because she also suffers from an overactive bladder.

The client receives Medicaid benefits from a private health care insurer that contracts with New York State to provide home care services to Medicaid recipients. Despite our client's repeated requests for more home care service hours, the Medicaid provider grudgingly doled out the services of a home health aide a few hours at a time—first 20 hours per week, then 30, then 44 and eventually 49. That still left our client home alone for over 40 hours per week. The consequences of the provider's leaving our client home unattended were predictable. She repeatedly fell and sustained injuries trying to transfer herself to the toilet. On occasion, she found herself on the floor, unable to get up, and requiring hospitalization.

Upon the Legal Aid Society's referring this matter to Winston, we prepared and filed a complaint in federal court, along with a motion for a preliminary injunction, demanding that the client be provided with sufficient home care service hours so that she would not be left unattended at home. We filed the complaint and motion for preliminary injunction on July 25, 2016, which received press coverage in the [New York Daily News](#) on the same day. In less than 48 hours, the Medicaid provider caved to all of our client's demands, and the client is now entitled to 24-hour live-in home care services as a result of the efforts of the combined Winston and Legal Aid team.

One of Legal Aid's senior managers remarked that, "in nearly 30 years of practice I have never seen such complete results so fast in any federal case. This is a tremendous testament to the Winston team effort and those at Legal Aid."

The Winston team consisted of Jeffrey Kessler, Jeff Amato, and Angela Smedley.

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