

Tennesseans with Severe Disabilities Challenge Cuts in Home Services

They request services that will keep them out of nursing homes
and allow them to live in the community

NASHVILLE, Tenn., March 2, 2010 - Two Tennesseans with disabilities are asking a federal court to block cuts in home health care sources that would force them to leave their communities and spend the rest of their lives in a nursing home. The two men, Justin Cochran of Knoxville and Glen Barnhill of Nashville lead active lives in their communities.

Justin Cochran, 27 years old, lives in an apartment in Knoxville. When he was 22, he suffered a spinal cord injury that left him paralyzed. He is quadriplegic and requires a ventilator 24 hours a day. Because of life-threatening spasms and other problems, he cannot be left alone for any period of time. Despite this disability, he has completed the first three years of an aerospace engineering degree and wants to be a productive worker. He also gives peer support to others with recent disabling injuries. Tennessee's decision to deny home based services will not only force him into a nursing home but make it difficult for him to complete his education, and cause him to lose any chance of getting a job or having a family.

Glen Barnhill is a 49-year-old man who suffered a spinal injury that has left him partially quadriplegic. He requires 24-hour care from trained staff in order to live in his home. After he lost his TennCare, he was hospitalized at Vanderbilt University. When he again became eligible for TennCare, the state refused to provide the home health care he needed to return to the community. He is participating in a Social Security Plan to Achieve Self-Support that will help him remain in the community. He is taking college courses online while confined at the Vanderbilt University Medical Center.

Both men claim that the state's refusal to provide appropriate private duty nursing and home based services violates the Americans with Disability Act. This federal law requires, among other things, that persons with disabilities be given an opportunity to live in their communities if they are able. The suit, *Barnhill and Cochran v. Goetz, et. al.*, was filed in the U.S. District Court in Nashville on Feb. 23, 2010. The men are represented by staff attorneys Katie Evans and Lenny Croce, with the Legal Aid Society in Nashville and Oak Ridge, and by Lee Ann Swarm with Legal Aid of East Tennessee in Knoxville. They are assisted by two out-of-state attorneys, Steve Gold, a disability rights advocate in Philadelphia and Sarah Somers with the National Health Law Project in Chapel Hill, N.C.

In announcing the suit, Evans said, "Both men are classic examples of why the ADA's commitment to encouraging people to live in their communities is so important. Both these men have made heroic efforts to lead normal lives and become productive members of society."

Swarm said, "Justin Cochran's story is inspiring to all of us. The State of Tennessee should be looking for ways to support him and hold him out as a model for other persons with disabilities instead of trying to warehouse him in a nursing home."

Legal Aid of East Tennessee, based in Knoxville, and the Legal Aid Society, based in Nashville, give free legal help to people who have nowhere else to turn.

The state argues that confining the men to nursing homes will be cheaper than giving them 24-hour care in their homes and communities. Cochran and Barnhill say that there is not a nursing home available that will give them the care they need, and that they have a right to try and stay in their communities if they can.

Cochran spent months in the Shepherd Center in Atlanta one of the country's top rehabilitation facilities where he learned to guide his wheelchair and work on his computer by blowing into a tube.

The State's TennCare Bureau says that Cochran, who requires 24-hour care because of his ventilator, would be allowed only 18 hours a day of care. In a "6 On Your Side" report about the case produced by Knoxville WATE reporter Don Dare, Mr. Cochran said that the state's limit would require him to be on his own six hours a day. "I can't go 10 minutes on my own due to the ventilator. So six hours, that's a death sentence," said Mr. Cochran.

Barnhill and Cochran are asking the court to order the state to provide them reasonable accommodations that will allow them to live in their homes.