



Justice Department Settlement Agreement: Emergency Medication for Children with Epilepsy

July 10, 2020

Discrimination against children with Epilepsy who attend day care centers will no longer be tolerated according to a Settlement Agreement entered into by the Justice Department and Tender Care Learning Centers, a day care company that operates multiple facilities in Connecticut and Pennsylvania.

The Agreement requires Tender Care Learning Centers to administer the life-saving, anti-seizure medication, Diastat, as prescribed.

Center for Children's Advocacy attorney Bonnie Roswig, director of the Center's Disability Rights Project, brought the Complaint on behalf of her clients, Katherine and Fernando DeOliveira, whose two year old son attended a Tender Care facility in Connecticut.

"My heart stopped beating" said Mrs. DeOliveira, describing her shock when told, with no advance notice, about Tender Care's newly-released policy to refuse Diastat treatment for an epileptic seizure.

Tender Care's reversal from prior practice was to be instituted immediately, leaving no time for the family to find alternative childcare.

The impact on the family was devastating. They spent weeks scrambling to find safe childcare, missing work to visit and interview new facilities, while trying to process the discriminatory and illegal action against their young son.

The Americans with Disabilities Act (ADA) clearly establishes the rights of children with disabilities to participate in programs that are available to non-disabled children.

"It is inconceivable that a childcare center would affirmatively put a child's life at risk and simultaneously deny that child his right to participate in their program," said Attorney Roswig. "Tender Care's action was blatantly discriminatory and illegal."

The Settlement Agreement requires Tender Care to pay \$20,000 in damages, to train their staff to administer Diastat as needed, and to assure that all Tender Care facilities comply with the Americans with Disabilities Act. The U.S. Justice Department will have ongoing oversight of Tender Care's compliance with the Agreement.

"This Agreement makes it clear that discrimination against children with disabilities is not to be tolerated. All children, regardless of medical condition, must be given the opportunity to participate alongside their non-disabled peers," said Attorney Roswig. "The Agreement has far-reaching impact, not only for every childcare facility in Connecticut, but for those throughout the country as well."

"The stigma surrounding epilepsy continues to fuel discrimination and isolates people with epilepsy from mainstream life. Despite great progress, epilepsy remains a formidable barrier to educational opportunities, employment, and personal fulfillment among children and adults," said Michael Finley of the Epilepsy Foundation of Connecticut.

The case was pursued by Assistant U.S. Attorney Ndidi Moses of the District of Connecticut in collaboration with the Disability Rights Section of the United States Department of Justice Civil Rights Division.

For more information, contact Bonnie Roswig: broswig@cca-ct.org