



For more information:  
Barbara Graves-Poller, Esq.  
212-417-3724 / [bgravespoller@mfy.org](mailto:bgravespoller@mfy.org)

FOR IMMEDIATE RELEASE

**MFY Legal Services Represents Adult Home Resident in Suit against the  
New York State Department of Health Alleging Violations of the Constitution and  
the Americans with Disabilities Act and for By-passing the Legislature in its Rule-making**

*Department of Health's unofficial rules place a "thumb on the scale" of justice  
in favor of adult home operators at the expense of disabled residents*

NEW YORK, N.Y., October 25, 2011—Today, Sindy Cohen, a 51-year-old resident of the Elm York Home for Adults, asked a federal court to declare that the New York State Department of Health's administrative rules violate the due process protections of the 14<sup>th</sup> Amendment of the U.S. Constitution and the Americans with Disabilities Act. Ms. Cohen also asks the court to invalidate certain of the Department's rules since they were never officially enacted in accordance with the New York State Constitution and the State Administrative Procedure Act.

As alleged in her complaint, Ms. Cohen has a disabling psychosocial impairment. In March 2011, Ms. Cohen lodged a written complaint with the Department's Adult Home Complaint Intake Unit against Elm York. Her complaint also alleged, among other things, that Elm York's administrator violated her rights by forcing her to cash in a retirement account on highly unfavorable terms, dispatching employees to open a bank account against her will, commandeering her checkbook, and charging her grossly inflated rents and exorbitant fees for housing-related services instead of providing the case management assistance required under the Department's regulations.

The Department conducted an investigation, and on June 2, 2011, "substantiated" her complaint. However, the Department revealed to Elm York detailed information about the investigation and offered Elm York the chance to hold a closed door review proceeding at which the facility—but not Ms. Cohen—could appear with counsel to try to persuade the Department to overturn its findings and violations, thereby avoiding implementation of the very changes that the Department had ordered to protect Ms. Cohen's rights in the future.

In her complaint, Ms. Cohen alleges that the Department's unofficial procedures for allowing adult homes to appeal violations through closed-door, off-the-record proceedings deprive residents of their liberty and property without due process. She also claims that, by creating a complex appeal scheme for non-disabled operators but denying disabled residents participation in that process, the Department violates the Americans with Disabilities Act. The complaint further alleges that the Department has failed to officially promulgate its appeal rules and that it abuses its discretion in ways that allow adult home operators to violate residents' rights with virtual impunity.

“In a prior proceeding, the Department of Health admitted in open court that its processes were designed for the sole purpose of protecting the financial interests of adult home operators,” said Barbara Graves-Poller, counsel for Plaintiff and attorney with MFY Legal Services, a non-profit organization. “The time for the Department to start protecting residents’ rights in this process is long overdue.”

MFY Legal Services’ Adult Home Advocacy Project advocates on behalf of people with mental illness who reside in adult homes throughout New York City.

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A copy of the complaint and photo of Ms. Cohen are available upon request.