

Hearings on Willowbrook conclude after 3 years

By TERENCE J. KIVLAN

After thousands of pages of testimony from dozens of witnesses, hearings in the nearly three-year-old suit against Willowbrook Developmental Center ended yesterday in Brooklyn Federal Court.

Judge Orrin G. Judd scheduled final oral arguments in the case for next Monday afternoon. He instructed opposing lawyers to keep their summaries to about an hour and 15 minutes each.

In addition, the lawyers for the plaintiffs in the suit, parents with children in Willowbrook, agreed to provide the judge with a memorandum spelling out ideas on how to upgrade living conditions and improve the educational program at the Staten Island mental institution.

Meanwhile, both sides are waiting for a decision on the 80-page, out-of-court agreement that former Gov. Wilson rejected in December. Gov. Carey has promised to act on the matter by Jan. 15.

But lawyers for Willowbrook parents made it plain yesterday that they would withdraw their approval of the document if Carey adopted all the revisions proposed to the agreement by Robert W. Hayes, a deputy commissioner in the state Department of Mental Hygiene.

"As of now, I would advise my clients against signing the Hayes' version," said Bruce

Ennis, an attorney from the New York Civil Liberties Union.

He explained that he had not yet evaluated all of the changes suggested by Hayes. Ennis added, however, that he would not go along with any agreement that did not provide for a review board composed partially of outside experts.

The original draft of the agreement contained stringent new standards for the running of Willowbrook and called for the review board to set a timetable for their implementation.

Testifying Friday, Hayes introduced into evidence a new version of the agreement that relaxed some of the standards and eliminated the review board.

In yesterday's testimony, a fiscal expert from the Department of Mental Hygiene told the court that, contrary to the claims of the plaintiffs, the state does not have large amounts of ready cash to spend on community facilities for the mentally retarded.

The official, Leon Ratzker, testified that although the Department of Mental Hygiene presently has a bonding authority of over \$400, the agency is allowed to raise money only for specific projects that have been approved by the Legislature.

Ratzker also said that the department does not have access to the money in Mental Hygiene Services Fund, which is collected every year from medical insurance payments, medicare and medicaid, and other federal reimbursements.

He explained that the money is being held in reserve by the state controller as a lien against the bonds already sold by the agency.

The plaintiffs have contended that, after investing hundreds of millions of dollars in large institutions like Willowbrook over a number of years, the state now refuses to use its available resources, including the Mental Hygiene

Services Fund, to build a network of small community facilities for the mentally retarded.

In other testimony yesterday, Donald Fleming, the deputy director of institutional administration, told the judge that absenteeism among the workers at Willowbrook had dropped off as a result of a new documentation system.

Fleming also testified that a new program at Willowbrook to group the residents according to the borough of their origin was foundering because it had turned out to be administratively impractical.

Following Fleming to the stand was Mrs. Hannah Glasser, the director of education at Willowbrook. She conceded during cross-examination that, although state law requires public schools to provide equivalent education programs for handicapped children, there was no coordination mechanism between Willowbrook and the city educational system.

The suit against Willowbrook was initiated in March of 1972 by a coalition of groups, including the New York Civil Liberties Union, the Legal Aid Society and the New York Institute for Retarded Children.

The plaintiffs are charging that the level of treatment at Willowbrook violates the constitutional rights of the residents.

The defendants in the suit are the state Department of Mental Hygiene, which runs Willowbrook, and former Gov. Rockefeller.