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In-home care of handicapped gets \$\$ boost

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A federal court judge ruled yesterday that the state must offer funding to the natural parents of a group of handicapped persons so that they may be cared for at home.

The decision by Brooklyn Federal Judge John R. Bartels concerns persons now or once institutionalized in the Staten Island Developmental Center, Willowbrook. But court observers say the ruling may open the way for government subsidy, for the first time, of in-home care of the handicapped by their natural parents throughout the state. Officials have estimated that the cost of implementing a statewide home-care program will run to hundred of millions of dollars annually.

The Family Care Program, jointly sponsored by the state and federal governments, now finances care of the handicapped in foster homes, but it has not been used to finance care in natural homes.

In a 34-page decision, Bartels ruled that natural parents can qualify as family-care providers and that the state should be prepared "to provide the funding reasonably necessary to effectuate such placement."

James E. Introne, commissioner of the Office of Mental Retardation and Developmental Disabilities, said he could not comment on the ruling, issued late yesterday afternoon, before consulting with state attorneys. But he noted that "no statutory or regulatory basis exists for making such payments."

The court's decision resulted from a suit brought against the state by parents of current and former residents of the Staten Island Developmental Center. Early last year, the state terminated a policy of funding in-home care of these persons, from which about 80 natural parents had benefited.

The funds were canceled after another

group of parents from the Bronx took legal action to obtain comparable financing. The Bronx parents argued that the state was unconstitutionally discriminating against them by denying them funds that other parents were receiving.

Ruling in the case, State Supreme Court Justice Alfred J. Callahan agreed. As long as parents of Staten Island Developmental Center residents could draw funds, he said, other parents of persons whose handicap would qualify them for admission to an institution are entitled to money as well.

Rather than extend payments, the state withdrew them and lodged an appeal, still pending, of Callahan's decision.

If the Bronx ruling is upheld, the state will have little choice in light of yesterday's decision but to make available funds for home care for all natural parents of handicapped persons in the state who might otherwise be institutionalized. Judge Bartels' decision was expected to be appealed.

Under the Willowbrook Consent Decree of 1975, the state must provide past and present Staten Island Developmental Center residents with the "least restrictive and most normal living conditions possible." To accomplish this goal, the decree, presided over by Bartels, stipulated that developmental center residents would be phased out into smaller community-based facilities.

Bartels ruled yesterday, in effect, that the natural parents of a developmental center resident may be able to provide the environment mandated by the consent decree.

State officials have estimated the expense of providing in-home care for the handicapped statewide would be much more severe than the cost of the consent decree. As of a year ago the consent decree cost more than \$350 million.

Before the state abolished in-home care funding to the approximately 80 developmental center parents it had deemed eligible, payments had been made from the center's operational budget. "Use of those monies for this purpose was questionable," Introne said yesterday. While patients living with their families benefited, he explained, those still in the center lost resources the state had determined were due them.

"It is fair to say," Introne added, that siphoning funds from the center's budget is "not contemplated" in the future.

"What Judge Bartels' decision boils down to is preserving the family," Christopher Hansen, attorney for the center parents, said. In seeking to avoid payments to natural parents of the handicapped, he added, "the state, in the interest of short-term expediency, is trying to destroy the family."

Hansen said that home care is less expensive than services to the handicapped in state-run facilities. The state has estimated that the cost of care diminishes with the size of the facility — from, for example, about \$35,000 yearly for each resident of an institution to about \$12,000 yearly for each resident of a group home.