

Stipend Ordered For Ex-Patients Of Willowbrook

U.S. Judge Says State Aid Must Go for Home Care

By RICHARD J. MEISLIN

A Federal judge in Brooklyn ordered New York State yesterday to pay stipends to parents who took their retarded offspring out of the Staten Island Developmental Center to care for them at home.

The judge, John R. Bartels, stressed that his ruling covered only the people who were part of the so-called Willowbrook class — about 5,000 children and adults who were residents at the Staten Island facility in 1972 when lawsuits were begun in an effort to improve conditions there.

But state officials said they feared that the ruling would open the door to legal challenges compelling the state to pay stipends to any natural parents who were caring for their retarded children at home. They said this would involve financial burdens the state could not afford. The officials said they would probably appeal the ruling.

'Not Explicitly Authorized'

In a 24-page decision in Federal District Court, Judge Bartels acknowledged that the payment of stipends to parents to care for their own children — amounting to \$331 a month — "is not explicitly authorized by the consent judgment" under which the state agreed to reduce the population at Willowbrook and improve conditions there.

But he said that, in plans to implement the consent decree, "the importance of the natural home as not only a placement option but a placement goal is repeatedly emphasized."

The judge cited figures to show that placement in a natural home was less expensive than either institutionalization, which costs \$30,000 a year, or placement in community group residences, which costs between \$9,000 and \$12,000 annually.

The state began paying parents stipends to care for children taken from Willowbrook under an administrative decision in 1976. The action was a way of meeting court-mandated quotas to reduce the population there.

Practice Found Discriminatory

But it halted the practice recently after a State Supreme Court justice in the Bronx decided that, under the equal protection provisions of the United States Constitution, the state could not single out one group of parents of retarded children and pay them for care without offering the same kinds of payment to all parents.

That suit, *Sundheimer v. Kolb*, was brought by a group of parents of retarded children who had never been placed in state institutions. It is being appealed by the state.

"The whole essence of the Willowbrook case is to get kids out of institutions," said Chris Hansen, a lawyer for the New York Civil Liberties Union who is involved in the suit.

The state's cancellation of the stipend program, he argued, "perpetuates the destruction of the family unit and costs more."

"We had parents who said, 'I love my child, I want to reunite my family, but I can't afford it,'" Mr. Hansen said.

He said that about 80 parents had availed themselves of the stipend offer since the state first made it in January 1976.