

# UCP guardianship hearing postponed

By ANEMONA HARTOCOLLIS

A hearing in Surrogate's Court to resolve a controversy incited because a private agency in Willowbrook adopted its mentally retarded patients was indefinitely postponed yesterday.

The agency, United Cerebral Palsy Associations of New York State (UCP), asked for the delay because its lawyer needed additional time to prepare its case, according to an agency spokesman.

Walter Rosenthal, the spokesman, said UCP had hoped to settle the controversy out of court, before yesterday's scheduled hearing. He said he was not authorized to disclose why attempts to settle had failed.

UCP went to Staten Island Surrogate's Court more than a year ago and obtained guardianship of 47 patients at the Karl D. Warner Center. The center, on the grounds of the Staten Island Developmental Center in Willowbrook, treats about 450 mentally and neurologically impaired patients.

A non-profit agency with facilities throughout the state, UCP is almost entirely funded by state and federal Medicaid funds.

The guardianship was challenged last fall by the Mental Health Information Service (MHIS), an arm of the state government providing legal services to the mentally disabled.

In a motion filed Nov. 19, state lawyers asked the Surrogate's judge to rescind the guardianships.

The lawyers contended that guardianship was too powerful an instrument for UCP to wield. They further protested that UCP had ignored a law requiring it to inform MHIS, by certified mail, of its intention to seek guardianship.

In the papers filed, the MHIS lawyers focused on the issue of elective surgery. They said the court had inappropriately given "carte blanche" to UCP to decide whether some patients should undergo risky surgical treatment. It was the position of MHIS that such medical decisions should be made by a state Supreme Court judge based on a physician's testimony.

Administrators of UCP have argued that obtaining a judge's approval of medical treatment is excessively time-consuming and expensive.

Francis M. Savastano, MHIS acting director on Staten Island, has declined to discuss specifics of the negotiations with UCP.

Other advocates of the civil rights of the mentally retarded have warned that the UCP guardianship awards raise issues aside from surgery.

Chris Hansen, a lawyer for the New York Civil Liberties Union, has criticized the guardianship as a conflict of interest.

The Consumer Advisory Board, appointed in federal court to monitor UCP patients, has announced plans to seek revocation of the guardianships in court.

A 1975 federal court decree invested the board with responsibility for decisions affecting the patients' training and housing. Since UCP was declared a legal guardian, the agency apparently usurped some of the board's authority, according to board members.

The board members object that they, too, were legally entitled to notification of the guardianship proceedings, so that they could explain their role to the judge.

In a sworn deposition, the attorney for UCP and Robert Schonhorn, the agency's executive director, told the court they knew of no other persons interested in the guardianship proceeding. The deposition was filed before any guardianships were awarded.

According to UCP, the patients for whom it has become guardian, lack any traceable family members.