

# State waiting before appealing Willowbrook order

By ANEMONA HARTOCOLLIS

State officials have decided to defer filing an appeal of court-ordered reforms for the Staten Island Developmental Center, until the federal court has appointed a special master to run the Willowbrook institution for the mentally retarded.

Paul R. Keitzman, an attorney for the state Office of Mental Retardation and Developmental Disabilities, said yesterday that the state definitely intends to appeal the court ruling. But he said the nature of that appeal will depend on the identity of the special master and the powers

awarded to him.

The ruling, handed down April 28, charged that 1,369 retarded patients in the Willowbrook complex receive minimal therapy, sleep in rooms that smell of urine, eat in vermin-infested kitchens where the food is stored at temperatures that encourage spoilage, and wear torn and unseasonable clothing.

The judge, John R. Bartels of Brooklyn Federal Court, ordered the state to reduce the institution's population to 250 by April 1985 and said he would appoint a special master to monitor progress.

Although lawyers for the state

and the plaintiffs were scheduled to nominate people and propose responsibilities for the master's post yesterday, the deadline for filing those written briefs has been postponed until next Friday. The plaintiffs, who include parents of the retarded patients and public interest groups, are represented by the New York Civil Liberties Union, the Legal Aid Society and some private counsel.

Keitzman said the special master is not the only element of the judge's decision that the state is prepared to challenge, but it is a key issue. He said the state also would try to overturn

the judge's 15-bed ceiling on the size of community-based apartments and group homes for the retarded.

In broad terms, Keitzman said, the state will contend in its appeal to the Federal Court of Appeals for the 2nd Circuit, Manhattan, that the lower court "exceeded the boundaries of its proper discretion or powers."

In its brief next Friday, he said, the state will address questions relating to the master including impartiality, place of residence, professional credentials, powers and functions.

If Bartels "takes the piece of paper we will submit and signs

his name to the bottom of it, then that subissue will be foreclosed to us," Keitzman said.

Neither Keitzman nor the Civil Liberties Union would divulge the names they plan to nominate for the position of special master.

Bartels was deliberately vague in the definition of the special master that he provided in his ruling. The master, he said, would be supported by state taxpayer funds to act "as an arm and as the eyes and ears of the court." He asked both sides in the court dispute to submit written briefs refining his definition.

The judge said the master was not intended to usurp the admin-

istrative functions of state mental retardation officials. But some officials, including Keitzman and Dr. Ella Curry, director of the Willowbrook institution, have voiced skepticism, suggesting the master is both unnecessary and a threat to the state's authority.

In his ruling, Bartels denied a state motion to permit group homes of 15 to 50 beds. State officials argued small group homes are too expensive when the patients require intensive medical staffing and scarce because of New York City's tight real estate market. But Bartels said intimacy was essential in the treatment of the retarded.