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Future of UCP rests with Bankruptcy Court

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ALBANY — The future care for hundreds of mentally retarded people by United Cerebral Palsy once again has been called into question, this time by the association's filing for Chapter 11 reorganization in U.S. Bankruptcy Court.

Whether the move will give way to a full-blown judicial probe — one that could finally lay bare the merits in a continual dispute about state-UCP reimbursement monies and the association's overall finances — remains to be seen.

As explained by one attorney, filing as UCP did under the Chapter 11 freezes all legal proceedings against it — serving to protect it from creditors.

At the same time, it requires the organization to file monthly operating statements with the court and opens its books and records to outside scrutiny.

If they wish to invest in lawyers and accountants, the creditors could form a group and move in court for a trustee to take over UCP operations, according to the attorney consulted by the Advance, Paul Hollander, who is not involved in the case.

But the emphasis in a voluntary filing, such as UCP's, is usually on the future, not the past, and a thorough outside investigative function is not the norm, Hollander indicated.

On the other hand, if the matter evolves into a Chapter 7 proceeding under bankruptcy law, then assets are liquidated, a trustee is assigned, and there would be "a look into past practices," he said.

In this case, the creditors reportedly include companies contracted by UCP to provide support services for the care of an estimated 650 mentally retarded people in special community residences statewide, including Island facilities.

The court move comes after years of continual public disagreement between UCP and state officials over how much money the association should get to provide the services.

On Friday, when the association filed for reorganization under Chapter 11, UCP claimed it could not pay debts totaling \$8 million, arguing that the state's reimbursements were much too low to cover costs.

As news of the court move in Manhattan reached Albany, Commissioner Arthur Y. Webb of the state Office of Mental Retardation and Developmental Disabilities (OMRDD), expressed surprise.

"We have been engaged in ongoing negotiations with (UCP) and had no indication that (UCP) would take such action," Webb said in a news release.

"We will continue monitoring" the care facilities such as those on Staten Island, "to protect the safety and welfare of the clients residing in those programs."

Midge McGraw of the OMRDD public affairs office added yesterday that agency officials were talking with UCP just two weeks

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ago about the reimbursements. She said there was no sign the Chapter 11 move was coming.

Cora Hoffman, a UCP spokeswoman, said by filing Chapter 11, UCP hopes the court will "give us the time to get these problems worked out with the state so we can continue working as a viable agency."

Robert Schonhorn, executive director of the association, noted in a court affidavit that UCP began its direct care programs at the request of the state after the 1975 Willowbrook Consent Decree.

The decree, arising from the infamous conditions at what was then called Willowbrook State School, led to the current state policy of community residence for the retarded and disabled.

At first, funding for the UCP programs came from service contracts with the state, but switched to a Medicaid funding rate system in July of last year.

Ms. Hoffman said the state Budget Division has cut back on rates agreed to by UCP and the state, and that services could not be continued at the present reimbursement level.

However, Ms. McGraw said OMRDD and UCP in recent weeks were "going on a case-by-case basis to figure out why UCP should get more than they're getting."

Furthermore, Ms. McGraw

said that out of hundreds of agencies contracting with the state to provide care for 7,000 mentally disabled people statewide, only UCP appears to find the funding inadequate.

"You could take either of two views on it," she said. "They could be truly trying to put their finances in order ... (or) If they're trying to apply pressure, how much pressure could you apply?"

Current reimbursement rates under Medicaid are "hefty," she maintained.

Also Friday, a show-cause order was issued in state Supreme Court in Albany as part of a legal action by UCP to force the Budget Division and Education Commissioner Gordon Ambach to set a tuition rate at two UCP-run facilities.

One of the facilities, closed since September, is the Community Training School, located in Mariners Harbor, to which severely retarded clients were brought for day programs.

But Ken Parson, a lawyer for the state Education Department, argued that because Medicaid pays for the overall care of the clients, a reimbursement by his agency would constitute nothing more than double-billing on UCP's part.

The state is to answer UCP's petition by Thursday. The action was moved from Manhattan at the request of state Attorney General Robert Abrams.

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