

## See attached [PDF](#) file for decision

The Federal District Court of Delaware has issued a decision affirming the constitutional right to travel for low-income people with disabilities. The decision is *Duffy v. Meconi*, No. 05-127 (D. Del. Sept. 11, 2007).

The plaintiff, 34 year-old Marianne Duffy, is blind, has autism and severe mental retardation, and needs constant care and supervision to protect her from injury. She has been living in a small group home-style care facility in North Carolina. In 2001, her parents moved to Delaware and applied for Medicaid on her behalf. Delaware's Medicaid agency denied the application, on the grounds that Ms. Duffy was not a resident in Delaware. She could not move to Delaware, however, unless the necessary services and supports were in place. She could not afford to pay for these services without Medicaid coverage. Thus, she was stuck in North Carolina.

The court ruled that Delaware's refusal to make her eligible for Delaware Medicaid until she actually physically relocated to Delaware violated her right to travel. The burden of requiring her to either pay out of pocket for medical and supportive services or to live without any services while her eligibility was being determined was held to be an unconstitutional burden on a fundamental right. Now that she is eligible for Medicaid, her coverage can begin as soon as she relocates. Thus, the necessary services can be arranged and in place before she relocates.

MaryBeth Musumeci from the Disabilities Law Program of Community Legal Aid Society of Delaware, one of the counsel for Ms. Duffy, stated "We are very pleased that a federal judge has reaffirmed what we have been telling Delaware officials for three years-- residency requirements that effectively close the state's borders to people who are poor or people with severe disabilities are illegal. Most of all, we are happy for our clients, Sean, Elise, and Marianne Duffy, who should soon be reunited after being separated for six years."

Another counsel for Ms. Duffy, Sarah Somers of the National Health Law Program says "Judge Sleet's decision reaffirms the basic principle that, nowhere in this country, should disability or poverty constitute a barrier to exercising your most basic rights - including the right to migrate and settle freely."