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4 autistic children victims of discrimination, judge rules

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The Vancouver Sun

Neal Hall Vancouver Sun
The B.C. government discriminated against four children with autism who were denied funding for an early intervention treatment program that costs up to \$60,000 a year, a B.C. Supreme Court judge has ruled.



Mark van Manen, Vancouver Sun / MAKING PROGRESS: Six year-old Aaron Lewis has some fun with his mother, Jean, who is a spokeswoman for parents with autistic children.

Justice Marion Allen also found the government's failure to provide effective treatment for the autistic children violated their rights under Canada's Charter of Rights and Freedoms.

COMMUNITY CONCERT

"The petitioners are the victims of the government's failure to accommodate them by failing to provide treatment to ameliorate their mental disability," the judge concluded in a 66-page written judgment, which was publicly released Thursday.

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The judge found that autism, a neuro-behavioural syndrome caused by a dysfunction in the central nervous system, "is a medical disability just as cancer is and ... both require treatment."

ClassifiedsBC.com Province

"I'm thrilled," said Sabrina Freeman, the mother of Michelle Tamir, one of the four children who launched a legal action against the government in 1998 to force the Crown to pay the high cost of the treatment.

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"I think it's a very good decision for children across Canada," she added. "I was particularly happy that the judge found it [early intervention treatment] is a medically necessary service. This will make it accessible to everybody, regardless of income."

Freeman, a Langley sociologist, is executive director of the advocacy group FEAT -- Families for Early Autism Treatment -- that has been asking the government for years to pay the cost of Lovaas Autism Treatment, an intensive early intervention program therapy program that requires 40 hours a week of one-on-one therapy and costs between \$45,000 to \$60,000 a year.

Freeman's daughter Michelle began Lovaas treatment in 1992, was able to enter kindergarten in 1993 with a full-time aide and now is in a regular Grade 6 classroom.

The girl was unable to talk before treatment and now does well in math and spelling, although she had difficulty in language studies, her mother said.

Fed up with lack of funding and government inaction, the parents of four children -- Tamir, Connor Auton, Jordan Lefaire and Russell Pearce -- petitioned the court to order the Crown to pay the cost of past and future Lovaas treatment.

The judge decided the issue of whether the government should be ordered to pay the cost of past and future Lovaas treatment will be decided at another hearing, likely in the fall.

"I'm hoping they'll agree to the funding and we won't have to go any further," said lawyer Chris Hinkson, who represented the autistic children and their parents.

About 150 families in B.C. are doing Lovaas therapy and having to foot the bill themselves, which has bankrupted some parents.

Other families, including a University of B.C. professor, have chosen to move to Alberta, which covers the cost of Lovaas therapy. The therapy helps integrate children into regular school classes by significantly improving their functioning.

"We view this as a major victory," Jean Lewis, a director of FEAT, said of the court ruling. She hopes the government will do the right thing and pay for all autistic children who need