

B.C. discriminated against autistic kids, judge rules

The province failed to 'provide treatment to ameliorate their mental disability.'

By NEAL HALL

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. 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.

"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.

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."

"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.

"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

SEE CHILDREN, B2



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

CHILDREN from B1

Paying for treatment has bankrupted some parents

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 Lefavre 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 func-

tioning.

"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 Lovaas treatment, not just the four who won the three-week legal battle, which was heard last April.

The parents of autistic children who belong to FEAT filed in court an endorsement of Lovaas Autism Treatment by 63 psychiatrists who found it highly effective.

Expert psychologists from New York and California were also called as witnesses to testify about the benefits of Lovaas early intervention treatment, which was developed by an American, Dr. Lovaas, in 1970 after he noticed autistic children do not learn from their everyday environment and needed a

special, intense and comprehensive learning environment.

The judge noted the parents of the children involved in the lawsuit reported dramatic improvements and substantial progress in communication and language skills.

Shortly before the legal action was heard in court, Gretchen Brewin, minister for children and families, announced a \$1.1-million early behavioural intervention pilot project for children with autism.

The pilot project — part of \$9-million package announced by Brewin for early childhood health development — will receive a total of \$1.4 million this year and will examine a range of therapies, including Lovaas, for children aged two to six.

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