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## Parents fight to make health care Charter right

Government lawyers say it would absorb 'unlimited budgets'

**Janice Tibbetts**

CanWest News Service

Thursday, June 10, 2004

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OTTAWA - Canadian taxpayers will have to pay skyrocketing bills if health care is elevated to a constitutional right, the Supreme Court of Canada was told yesterday.

The parents of several autistic children watched from the spectator benches as more than a dozen lawyers presented arguments over whether the B.C. government should be forced to cover early intervention therapy that costs as much as \$60,000 a year per child.

The case is considered significant because a victory for the parents could spark other demands on the stretched health system.

"All of the resources of the government would have to go to health care demands," said Graham Garton, a lawyer for the federal government. "We'd have to have unlimited budgets."

The hearing was the culmination of a six-year legal battle started by four British Columbia families after the government refused to fund what is known as Lovaas autism treatment, saying it was "novel, controversial, experimental and not a medically necessary service."

The parents won their case in the lower courts in their home province. The landmark ruling said that the government violated the Charter of Rights equality guarantees for the disabled.

The parents say the refusal to pay for the treatment is short-sighted, given that about 90% of autistic children are eventually institutionalized at an enormous cost to taxpayers.

Lovaas autism treatment was pioneered in the United States by psychologist Ivar Lovaas in the late 1980s. Autistic children undergo 20 to 40 hours a week of one-on-one therapy that is most effective when a child is young.

Miki Tamir, a Grade 10 student in Langley, B.C., was a "living nightmare" before she began treatment just before she turned four, her mother Sabrina Freeman said outside court.

"She was in her own little world; she basically sang at the top of her lungs every waking moment," Ms. Freeman said.

"Now she's in Grade 10 at a fine arts school. She plays six instruments, we have a child who has a life and we're looking at her being able to make a living, actually being a taxpayer rather than a ward of the state."

Some provinces cover the therapy costs to some degree, but many of the expenses are left to parents.

By their line of questioning, the seven Supreme Court judges who heard the case yesterday appeared conflicted about where they would draw the line if they sided with the autistic children.

Justice Ian Binnie noted that the B.C. government's decision was to "effectively write these children off."

The court reserved its decision, and a ruling is not expected for months.

It is estimated that only about 70% of health services are publicly funded. Drug costs and many treatments not delivered by doctors are generally excluded from medicare coverage.

Provincial governments argue they are not discriminating against autistic children by denying them coverage for what some say is an education program, not a health treatment.

"The decision may have been wrong, it may have been unwise, it may have been cheap, but it wasn't discriminatory," argued Geoffrey Cowper, a lawyer for the B.C. government.

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