

# New York denies asthma treatment to homeless children

## Federal class action lawsuit filed

**Fred Mazelis**  
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A class action lawsuit was filed in Federal District Court in New York on March 16 charging that New York City and State authorities systematically deny adequate medical treatment for homeless children in the city's shelter system.

The suit was filed by the Association to Benefit Children, a nonprofit advocacy group, on behalf of four children suffering from asthma, along with their parents, representing the class of thousands of similarly affected children in the city. The plaintiffs are represented on a pro bono basis by a major New York law firm, Kramer Levin Naftalis and Frankel, as well as by the Legal Aid Society.

Untreated or inadequately treated asthma has become epidemic in poor neighborhoods throughout New York City. Tens of thousands of children are severely affected, and a report issued last year showed that hospitalization rates were more than 20 times as high in the city's poor neighborhoods as in wealthier areas, a huge disparity undoubtedly reflecting the impact of poverty, poor housing and living conditions, stress and the lack of preventive medical care.

In the city's homeless shelters the situation is even worse. A recent study reported that nearly 40 percent of children in the shelter system suffer from asthma. Many are not even diagnosed when they enter the shelter system. Ninety percent of those with persistent asthma are not receiving adequate medical treatment, despite the fact that they are receiving shelter from the city. On any given night, about 9,000 homeless children are in the shelter system, so these figures reveal that more than 3,000 children are suffering with asthma and being denied proper care. These are statistics that the Mayor Rudolph Giuliani and other authorities do not refer to in

their repeated boasts about the so-called revival of New York.

As the lawsuit points out, a child with asthma can live a full and normal life if properly diagnosed and treated. Left untreated, however, asthma can lead to permanent lung damage, a higher risk of pulmonary disease, more severe asthma and more frequent attacks. A history of untreated, severe asthma, frequent hospitalization, lack of medication and stress is associated with increased risk of death from the disease.

The suit charges that New York and various city and state agencies, including the city's Human Resources Administration, Department of Health and Department of Homeless Services, and the State Department of Health and Office of Temporary and Disability Assistance, fail to provide early and periodic screening, diagnosis and medical treatment as mandated by federal Medicaid legislation enacted in 1965.

The city is obligated to screen Medicaid-eligible children for asthma and other chronic diseases; to provide diagnosis and medical treatment services; to improve or correct conditions that worsen asthma; to provide health education to children and their families; and to help in the scheduling of medical appointments and provide transportation to and from the doctor's office when necessary. According to the legal brief filed in the suit, "Defendants have failed to provide these mandated services to plaintiffs and to other vulnerable, homeless children in the class plaintiffs seek to represent."

The lawsuit illustrates the conditions facing thousands of children by detailing the experiences of the four named plaintiffs.

Dajour B., for instance, is 19 months old, lives with

his mother, father and sister in a city shelter, and was diagnosed with asthma when he was 10 months old.

The family had been staying with Dajour's great grandmother but had to move because of severe overcrowding. A cat as well as cockroaches in the apartment were aggravating the infant's asthma. The family applied for emergency shelter at the city's Emergency Assistance Unit.

Dajour's family was denied shelter on the basis that they could return to his great grandmother's home. While appealing this decision, they have been placed in a number of temporary locations. At none of these was Dajour screened, diagnosed or treated for asthma. Despite the fact that his mother has informed shelter personnel at every point of his condition, the family has received no assistance or even any information on treatment.

At one facility the family was forced to walk up and down seven flights of stairs because the elevators did not work. This exertion, as well as roaches and rats in the shelter, all worsened Dajour's asthma. He had to be rushed to the hospital by ambulance and shuttled back and forth between the facility and the emergency room for three days and nights.

Although covered by Medicaid, Dajour has received no treatment within the shelter system. His most recent asthma attack occurred in February, when his fever reached 105 degrees.

The suit demands a court injunction mandating that the city and state agencies satisfy the specific requirements of early and periodic screening, diagnosis and medical treatment, as spelled out in guidelines issued by the National Institutes of Health and the American Academy of Pediatrics for an effective asthma management plan.

Gretchen Buchenholz, Executive Director of the Association to Benefit Children, issued a statement on the lawsuit which warned that "Unless New York acts now to provide the kind of outreach and treatment that has been mandated for decades, more lives will be jeopardized, more children will waste away because they are too ill to play with friends, too debilitated to attend school and unable ultimately to find their breath.... New York's homeless children with asthma are being denied the opportunity for a normal childhood. They are often hospitalized unnecessarily. Children are allowed to get sicker and sicker because

there is no program in place that ensures early diagnosis and supervised treatment. The medical and human costs of ignoring asthma far outweigh the costs of providing routine preventive care. This is an expensive and damaging practice."



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