

Waldrop v. New Mexico HSD, Doc. No. 112
(Summary drafted by Nancy Simmons, Esq.)

- Disability Rights New Mexico has associational standing to sue on behalf of developmentally disabled persons in New Mexico. The Arc has associational standing to sue on behalf of its members. Opinion at pages 9-15
- The SIS must be administered pursuant to the Due Process requirements elucidated in the Supreme Court’s opinion in *Goldberg v. Kelly*, regarding the termination or reduction of benefits to which a recipient is otherwise entitled. These requirements include “meaningful notice of and participation in a hearing prior to any termination or reduction of the benefits [a recipient is] receiving under the Waiver.” Opinion at page 26.
- The State’s current administration of the SIS violates Due Process at every stage of the proceedings. Opinion at pages 40 to 52.
- The SIS assessment and reassessment “are essentially fact-finding proceedings to determine the level of benefits to which the DD Waiver recipient is entitled.” The state must therefore comply with Due Process. Opinion at page 49.
 - The notice of SIS assessment fails to inform the recipient that the SIS assessment may result in the reduction of benefits, how the SIS will be conducted, and what criteria will be used. Opinion at page 49. This violates Due Process. *Id.*
 - The SIS assessor may make factual findings at the reassessment and may review documents to assist the assessor in exercising his or her clinical judgment in making factual findings. However, the recipient has no right to submit documents in support of his or her position. “In other words, the decision is based solely on the written record, and that written record is entirely one-sided.” This violates Due Process. Opinion at page 50.
- During the verification process, the State unilaterally evaluates whether there is adequate evidence to support a particular factual assertion by a recipient. This violates Due Process. Opinion at page 50.
- The fair hearings are constitutionally inadequate. “As supported in the record, at times SIS assessors and respondents have had disagreements about the facts regarding a DD Waiver recipient’s needs and abilities. SIS assessors have the authority to resolve those disagreements as they see fit, but DD Waiver recipients have no viable mechanism for challenging those findings at a fair hearing.” Opinion at pages 51 to 52.
- Plaintiffs’ strong showing of the deprivation of their constitutional rights is sufficient to show irreparable harm will result if the Court does not grant the motion for preliminary injunction. In addition, “the Court concludes that the most reasonable inference from the evidence presented by these disabled individuals is that a reduction in their benefits and services will likely result in harm to their physical and/or mental wellbeing.” Opinion at page 53.

- The potential irreparable harm to Plaintiffs outweighs any prejudice to Defendants. Defendants will have the administrative inconvenience of reforming the system, but the reforms required will be consistent with the current DD Waiver plan. “There is simply no reason that the current DD Waiver cannot be carried out in a manner consistent with federal constitutional and statutory law.” Opinion at pages 54-56.