

STATE OF WEST VIRGINIA
THIRTEENTH JUDICIAL CIRCUIT
OFFICE OF THE COURT MONITOR
STATE CAPITOL COMPLEX
BUILDING 6, ROOM 850
CHARLESTON, WEST VIRGINIA 25305

LOUIS H. BLOOM
JUDGE



DAVID G. SUDBECK
COURT MONITOR

MEETING OF THE PARTIES

In E.H., et al., v. Khan Matin, et al.

WEDNESDAY, NOVEMBER 19, 2014

MINUTES

PRESENT: David G. Sudbeck, Kyle Blackburn, Dan Greear, Vickie Jones, Jake Wegman, Karen Villanueva-Matkovich, Cynthia Beane, Regina Mayne, Lydia Milnes

I. COURT MONITOR REPORT

David Sudbeck started the meeting by distributing the latest list of grievances received by his office. David Sudbeck went over grievance number twenty and how the patient withdrew the grievance. David Sudbeck asked how the department felt about the Mountain Health Trust report completed by TSG. The department could not agree with all the information in the report. During the Policy/Community Integration discussion Lydia Milnes asked if the policy was implemented, Vickie Jones stated that a drafted policy is standardized and they are having a difficult time with the patient level systems. David Sudbeck mentioned that Sharpe Hospital forensic patients are allowed to go into the community but Bateman Hospital forensic patients currently do not have the opportunity to experience community integrations outings. However it is the goal to implement consistent practices across both hospitals in regards to community integration.

During the Provider Meeting update Daniel Greear reported that good progress has occurred with the Comprehensive Providers and they are continuing to meet. Karen Villanueva-Matkovich addressed Charity Care Funding and stated the meeting with Secretary Bowling went well. Vickie Jones agreed and added that they are back on track and doing amazing things with the Providers. The DHHR will provide the Court with an update on this issue at the December 3, 2014 hearing.

David Sudbeck asked how the cold shower issues at Sharpe are being handled, Vickie Jones said they have been resolved. The reason for the cold showers was the HVAC renovations and piping issues. A new pump had to be installed to correct this problem. The fifty new beds are ready but with the renovations at this time they are using those fifty beds to move patients around while additional HVAC repairs are being completed on the units. Other areas of the hospital were being used until the problem was corrected.

David Sudbeck handed out an email from an advocate at Sharpe Hospital dealing with two male workers who are apparently having sexual relationships with former female patients. David Sudbeck expressed concern that the staff workers are violating the hospital's policy and are still employed and working on the patient units. Vickie Jones has turned the email she received dealing with this matter over to her Human Resource department. Parker Haddix had not contacted Vickie Jones until this email arrived. Karen Villanueva-Matkovich said they are investigating and handling it properly, and that Human Resources will take the appropriate steps. Lydia Milnes said that patient advocates are still being denied access to patient records when trying to investigate abuse and neglect allegations. Karen Villanueva-Matkovich said she would speak with her staff to insure the proper procedures are being followed.

II. BHHF REPORT

Vickie Jones reported Parker Haddix is resigning from Sharpe Hospital on December 1st, 2014. A report on juvenile justice is due by December 31, 2014. No other issues were brought up other than the patient census appears to be going down. Vickie Jones formally requested the DHHR/BBHF be notified by the advocates when/if concerns arise prior to notification to the court monitor or plaintiffs being notified as previously agreed.

III. PETITIONER REPORT

Lydia Milnes was informed by Legal Aid that hospital staff are still requiring health care surrogates to sign patient record release forms, even when the patient has capacity. Ms. Milnes also informed the parties that the Liaison from Pretera Center has also been denied access to medical records. The access issue at Sharpe Hospital is still causing problems, any time after four o'clock in the afternoon advocates have to find someone to access copiers, fax, etc. David Sudbeck asked Vickie Jones about this and she will find out why this is still an issue. David Sudbeck asked about the Order dealing with audits which are to be completed by Legal Aid of West Virginia on the use of chemical restraints. Legal Aid is requesting an additional 30 days to complete these audits, neither party objected to the extension. After the Meeting of the Parties Legal Aid indicated via email that they would file a motion with the court to request an extension. The pay plan update was reported on by Vickie Jones and they are working on the paperwork with the Division of Personnel. Lydia Milnes asked about the patient paycheck delays, Vickie Jones sent an email and they are hoping to move to direct deposit of patient paychecks. Ms. Milnes asked whether the DHHR has plans to build a new in-patient behavioral health facility for youth. Ms. Jones and Ms. Villanueva-Matkovich denied any knowledge of such.

IV. BMS REPORT

Cindy Beane informed the group that the two Managed Care Workgroups process and quality are continuing to meet frequently. It was determined that changes in the restrictions were made so children could apply. The Managed Care Workgroups have been combined and are down to one work group working on the behavioral health groups.

Cindy also distributed the current TBI waiver report [copy attached below]

Next Meeting: Tuesday, January 13, 2014
10:00 a.m.-12:00 noon
One Davis Square
Conference Room 134 Charleston, WV 25301

**WV Traumatic Brain Injury (TBI) Waiver Program
Implementation through-October 2014**

MNER Summary: Since February 1, 2012, the Administrative Services Organization (ASO) has received, processed and/or made initial determinations on one hundred and eighty-two (182) Medical Necessity Evaluation Request Forms (MNER)/applications.

- ❖ Of those one hundred and eighty-two (182) applications (submitted MNER):
 - 16 applications were closed - no evidence of a TBI
 - 23 applications were withdrawn
 - 2 pending assessments
 - **141 applicants received medical eligibility determination assessments**
 - 29 applicants did not meet medical eligibility
 - 112 applicants were considered medically eligible based on their PAS and Rancho Los Amigos scores
 - 14 applicants were denied financial eligibility
 - 24 applicants withdrew their case after medical eligibility was determined
 - 15 applicants are awaiting financial eligibility
 - 2 applicants deceased prior to notification of medical eligibility
 - 57 applicants have been enrolled as members since 2/2012
 - 11 members have discontinued their enrollment since 2/2012
 - 2 member deceased
 - 44 Active Members in October 2014

# MNER Applications Received Per Month for the WV TBI Waiver Program					
2012	# MNER Received	2013	# MNER Received	2014	# MNER Received
January	N/A	January	6	January	9
February	4	February	5	February	6
March	2	March	10	March	4
April	4	April	4	April	8
May	3	May	9	May	9
June	1	June	4	June	7
July	2	July	10	July	6
August	5	August	10	August	2
September	7	September	5	September	7
October	1	October	10	October	8
November	3	November	5	November	
December	2	December	4	December	
2012 Total	34	2013 Total	82	2014 Total	66
Total since program implementation February 2012					182

Outreach Efforts Summary: In January 2012, the ASO initially sent emails to all existing Aged and Disabled Waiver Homemaker Agencies, Case Management Agencies, I/DD Waiver Providers and Personal Care Providers. In early February 2012, all applicable referral sources including Nursing Homes, Hospitals and Licensed Rehabilitation Centers were emailed. This correspondence announced the TBI Waiver Program, outlined eligibility requirements and supplied copies of the application (MNER) form (*these emails are not included in the 1185 Email contacts indicated below).

Since March of 2012, ASO staff has conducted statewide outreach efforts to include: scheduled face-to-face meetings within the facilities, presentations at local and statewide settings and meetings with the directors of the Aging and Disability Resource Centers.

Additionally, the ASO offers/provides training and technical assistance to the twenty-two (22) enrolled provider agencies. Training topics include the Medicaid requirements for covered services (Case Management, Personal Attendant Services and Cognitive Rehabilitation Services) and general information about supporting individuals with TBI.

The ASO targets outreach for each agency selected to provide services for enrolled members. Outreach focuses on providing guidance in completing the financial eligibility process and compliance with Medicaid forms. Additionally, the ASO provides technical assistance to resolve specific member needs.

Types and Numbers of Outreach Efforts Made for the WV TBI Waiver Program	
Type of Outreach	# Outreach Efforts
General Outreach	
Email	*1185
Phone	1120
Face-to-Face	508
Presentations/Outreach (ex. WV NASW Conference, local DHHR)	59
For Enrolled Providers	
Training-Webinar	29
Face-to-Face Technical Assistance	50
Phone Technical Assistance	401
Total	3,352

