

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, AUGUST 28, 2013

MINUTES

PRESENT: Kim Walsh, Vickie Jones, Jennifer Wagner, Lydia Milnes, Karen Villanueva-Matkovich, David G. Sudbeck, Allen Campbell, Wendy Elswick, Will Jones, Cindy Beane, Teresa Brown, dan connery.

I. COURT MONITOR REPORT

David Sudbeck distributed and reviewed the updated Patient Grievance list. He informed the Parties that Bill Albert of Legal Aid had performed audits at both Bateman and Sharpe and that the results of those audits would be available within a couple of weeks. After some confusion as to corrections on the Patient Grievance Form, the Parties agreed on a final version of the form and anticipate its implementation by September 1, 2013.

David also reiterated his decision to deny a grievance regarding the loss of a patient's artwork as the grievance has been filed a second time with his office but fell outside his jurisdiction due to the date of its filing. Vickie stated that this grievance was being addressed and that the individual would be reimbursed for all costs of the media used in the production of the artwork.

David also distributed a document detailing his visit to FMRS and commented that he was very pleased with the visit and with the accommodations made available to the clients. Vickie added that supported living slots are necessary and beneficial as witnessed by David on his visit. David stated that visits to United Summit Center and Northwood, as well as a follow-up visit to Southern Highlands, would occur in the near future.

In response to the status of the Request for Resolution, David congratulated Vickie on her position as Commissioner of BHHF but inquired as to the status of the hiring of a new CEO at Bateman. Vickie stated that Pat Franz would be the acting CEO, but that the hiring process would commence immediately with the filling of the position permanently within approximately ninety-days. She assured the Parties that they would be updated as this process unfolds.

Regarding the concerns of the Provider Community with changes to Managed Care, the Parties agreed that a meeting held by Secretary Bowling on September 5 would be the starting point for discussions surrounding forthcoming changes. That until basic information was made available, any discussion would be conjecture. Jennifer Wagner requested that any minutes or notes from this meeting be made available to the Parties to assist in the development of a plan to address Provider issues.

David also inquired as to the best means by which to implement the Formal Recommendations developed by his office to bring the Hartley litigation to a close. After much discussion it was agreed that a previous survey/inquiry of the Providers by BHHF would be a starting point to formulate which issues need addressed. It was also suggested that an outside firm may be hired to investigate/consult in this process. David stated that he foresees an approximate six month timeline to complete this process, but that the Parties would ultimately decide on the actual timeframe.

II. BHHF REPORT

Vickie Jones informed the group that the Gatekeeping Policy which was implemented June 29, 2012, has received comments from the Providers requesting changes to the policy due to some concerns raised by the members associated with its implementation. She will be forwarding these comments to the Parties for their review and input before a finalized version of the policy is implemented. Jennifer Wagner requested that all responses from the Parties be made by September 11, 2013.

Vickie also expressed that she was pleased with the allocation of funds by the Advisory Council to assist with both the development of substance abuse programs and programs that target child development. She recognized Kim Walsh and her staff in their commitment to secure federal funding to support children's services statewide in addition to the funding obtained as a result of the Advisory Council's recommendations, in spite of difficult financial times within the state.

III. PETITIONER REPORT

Lydia Milnes inquired as to the salary rates/increases for the staff at Bateman and Sharpe. Allen Campbell explained that salaries were based on an across-the-board average which was in a continual rate of flux but that he would provide the Parties with a document explaining the wage process. Lydia also inquired as to the usage of voluntary/mandatory overtime in both hospitals. Vickie Jones replied that an exhaustive document regarding overtime had been compiled for the legislature, and that she would forward this document to the Parties to offer a better understanding of overtime usage.

Jennifer Wagner inquired as to the development of a uniform policy regarding the transferring of forensic patients between the hospitals. Vickie explained that though processes are being developed to make a more unified system between the hospitals, there will always be differences due to the basic physical structure of the hospital facilities as well as the internal structure of staff and clients. She assured the Parties that Linda Dailey and Bill Albert are meeting regularly to address this issue, and that she would make any developments available to the Parties.

Lydia inquired as to the increase in the number of slots on the Title XIX Waiver wait list. Cindy Beane explained that though the waitlist is over 700 slots, West Virginia is one of the states with the shortest waitlist. She also explained the benefits and requirements which affect the size of the waitlist.

IV. BMS REPORT

Cindy Beane reported that she was encouraged by the increase in those eligible and those being served by the TBI Waiver. She also updated the Parties on the progress of the program with the attached documents [see below].

V. OTHER

Next Meeting: Wednesday, October 30, 2013
10:00 a.m.-12:00 noon
Covenant House
600 Shrewsbury Street, Charleston, WV 25301

**WV Traumatic Brain Injury (TBI) Waiver Program
Implementation through July 2013**

MNER Summary: Since February 1, 2012, the Administrative Service Organization (ASO) has received, processed and/or made initial determinations on eighty (80)–Medical Necessity Evaluation Request Forms (MNER)/applications.

- ❖ Of those eighty (80)-applications (submitted MNER):
 - 4 applications were closed, no evidence of a TBI
 - 10 applications were withdrawn
 - 1 applicant assessment was not scheduled by the end of July 2013
 - **65 applicants received medical eligibility determination assessments**
 - 16 applicants did not meet medical eligibility
 - 49 applicants were considered medically eligible based on their PAS and Rancho Los Amigos scores
 - 5 applicants were denied financial eligibility
 - 11 applicants withdrew their case after medical eligibility was determined
 - 8 applicants are awaiting financial eligibility
 - 2 applicants deceased prior to notification of medical eligibility
 - 23 applicants have been enrolled as members as of July 31, 2013

# MNER Applications Received Per Month for the WV TBI Waiver Program	
Month/Year	# MNER Received
February 2012	4
March 2012	0
April 2012	4
May 2012	3
June 2012	1
July 2012	2
August 2012	5
September 2012	7
October 2012	1
November 2012	3
December 2012	2
January 2013	6
February 2013	5
March 2013	10
April 2013	4
May 2013	9
June 2013	4
July 2013	10
Total	80

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 361 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 thirty-two (32) enrolled provider agencies. Training topics include the Medicaid requirements for covered services (Case Management and Personal Attendant 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	*361
Phone	705
Face to face	448
Mail	94
Presentations/Outreach (ex. WV NASW Conference, local DHHR)	54
For Enrolled Providers	
Training-webinar	20
Face-to-Face Technical Assistance	41
Phone Technical Assistance	187
Total	1,910

Personal Attendant Services



