

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 31, 2011

### MINUTES

**PRESENT:** Vickie Jones, Allen Campbell, Michael Bevers, Kevin Stalnaker, Teresa Brown, Molly Jordan, Cindy Beane, Jennifer Wagner, Belle Manjong, Jaci Gonzales, Wendy Elswick, David G. Sudbeck, Sheila Kelly, dan connery

#### I. COURT MONITOR REPORT

David Sudbeck reported that due to the limited amount of documentation on the sliding fee scale, it is premature to issue a Request for Resolution. The Office is and will continue to collect data on this issue and will make a report to the Parties on a future date. Both parties agreed with this decision with the understanding that a Request for Resolution may be necessary at a later date based on future information. David also distributed information that the Pretera Center had volunteered regarding their not accepting charity care funding for their Suboxone programs due to the Center's data suggesting that charity care allocations did not cover the amount of charity care the Center provides annually. Sheila expressed concern that individuals with opioid addictions and no income have no affordable method of obtaining treatment due to the very high fees that the center charges for services related to the Suboxone program. Jennifer Wagner suggested that an analysis be done to determine the adequacy of charity care allocations relative to services provided. Sheila pointed out that Pretera justifies the majority of its charity care through provision of ACT and CSU. Both services typically cost less to provide than the Center is paid (this is not an issue unique to the Pretera Center) and that to argue that the Center was "losing" money on charity care was open to further question. She also pointed out that the money described as being revoked by the Department from the Robert Wood Johnson grant simply represented the end of the granting period. It was never funding allocated to Pretera and the other Centers by BHHF. BHHF simply served as a "pass through" for the grant funds, which were designed to expire. She expressed concern about the quality of Suboxone programs statewide (not necessarily with Pretera). Vickie added that the same was true of methadone programs. Cindy Beane stated that Medicaid has

approved Prester's Suboxone program and that the income available to the Center from Medicaid sources may help to offset some of the losses in charity care provision.

David Sudbeck stated that responses by the Parties to the Court Monitor's Report on Overbedding should be filed before September 13, 2011. Judge Bloom has set a hearing for this issue on December 9, 2011. It is unclear whether Judge Bloom will wait to rule on the legality of diversion of forensic patients until that time

David Sudbeck also raised the issue of the status of the Personnel Corrections Plans for Legal Aid advocates provided to Sharpe Hospital. Kevin Stalnaker replied that there had been a management meeting and that vacancies had been filled at both Bateman and Sharpe Hospitals. Kevin also stated that additional advocates for Sharpe may be needed in the future with an addition of beds at that facility. He has suggested that Sharpe propose a formal request to obtain these advocates. Kevin will issue a full written report on the Legal Aid advocates at the next Meeting of the Parties.

David Sudbeck distributed an e-mail and floor plan sent to him by the executive director at Summit Center. Summit Center proposes to provide a 24-Bed Transitional Group Home for patients from Sharpe and Bateman. Vickie Jones stated that a similar proposition had been made by the director of United Summit Center, but that the proposed facility was intended for forensic patients. David stated that the director made no mention as to the forensic nature of the facility. It was agreed by all in attendance that a formal meeting with the director involving both parties and the Court Monitor be scheduled as to clarify the nature and intent of this facility. In general, all agreed that 24 beds for Civil Commitments was unlikely to be acceptable by anyone as this is far over the 8 bed programs generally approved. Cindy confirmed that such a building would be considered to be an IMD by BMS. Sheila indicated that the Department had been trying to get Summit to move their substance abuse program from Hopemont in Terra Alta to a more accessible location along I 79 for several years and that this building seemed a very appropriate possibility for doing so.

## **II. BHHF REPORT**

Kevin Stalnaker addressed the heating and cooling issues at Sharpe, stating that the temporary lines are completed, the trenches are dug and that new boilers are to be installed. He believes that the temporary system will be fully adequate to heat and cool the hospital until such time as the permanent repairs can be completed. The project is somewhat ahead of schedule.

The Bureau has been working very intensively on the substance abuse plan requested by the Office and due October 1, 2011. She believes that the report will be ready in advance of that date. The Acting Governor has prioritized substance abuse as an issue to be addressed by his administration and has been very actively involved in the development of multiple regional task forces. The task forces will be in six identified regions of the state and will meet on a regular basis to discuss local issues of substance abuse and to develop recommendations for addressing those issues. The initial task force meetings will be held regionally the week of September 26, 2011 and are open to all interested. These meetings will be facilitated by a state contractor and will include legislators,

representatives, providers, and stakeholders. An advisory board will also be established by the Governor consisting of educators, providers, physicians, and other stakeholders to make recommendations and provide solutions to current substance abuse issues.

Vickie also stated that the Mental Health and Substance Abuse Block Grants have been integrated on a federal level, and that West Virginia is one of the first states to apply for this combined grant. This “braiding of funding” will provide services in a more flexible and accessible manner.

She also stated that an epidemiological report with collaborative efforts from over twenty agencies will revolutionize the collection of data regarding alcohol, substance and tobacco abuse.

The Bureau has been working on suggestions for use of the funding left available from the 27 unused slots, but unfortunately Jennifer had to leave early and so the discussion was tabled until the next meeting. The BHHF has in mind applying the funds to Recovery Coaches, drug courts, and family treatment courts. Sheila suggested that short term (five day) detoxification/intensive treatment beds would be a wise investment as well.

Kevin Stalnaker stated he had investigated the testimony presented by the Sharpe advocate that telephones on the units at Sharpe were still not functional and had found this to be untrue. David confirmed that this was the case when he visited as well, as all telephones he tested were functional.

### **III. PETITIONER REPORT**

Jennifer Wagner asked if the Department had a response to the question posed by Prester's director about forensic proposals. Vickie indicated that she had received a two line email from the director of Prester Center asking if the Department were interested in such a proposal however that was the limit of what she had received.

Vickie Jones stated that the Department is always open to proposals concerning forensic patients and any other proposals for services and that she would follow up with Prester's director.

### **IV. BMS REPORT**

Cindy Beane reported that the two RFP's for an operating and fiscal agency for the TBI waiver have been posted and that two vendors have applied. She is hopeful that BMS will be able to meet Judge Bloom's deadlines.

She also stated that BMS had been coordinating meetings to discuss ACT (August 4, 2011), Community Focused Treatment (August 15, 2011) and Targeted Case Management (August 24, 2011) in an effort to develop clinically appropriate guidelines for these services.

The Money Follows the Person kick-off occurred on August 30, 2011. BMS hopes to be able to supplement and augment their TBI waiver program with these funds.

BMS has posted their revised Suboxone Policy for a 30-Day comment period.

## **V. SPECIAL ASSISTANT REPORT**

Sheila has been very busy facilitating the development of the revised Behavioral Health Services and Supports rule, along with many representatives of the Department and the provider and advocacy community. The project is moving along very well and should meet self-imposed deadlines.

## **VI. OTHER**

David Sudbeck stated that he will be visiting Pretera Center on Tuesday, September 6, 2011 to review their supported living and group home programs. He was invited to do so by Pretera, who has arranged a very busy day.

Next Meeting: Wednesday, October 19, 2011  
10:00 a.m.-12:00 noon  
Covenant House  
600 Shrewsbury Street, Charleston, WV 25301