

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, DECEMBER 18, 2013

MINUTES

PRESENT: Kim Walsh, Vickie Jones, Lydia Milnes, Jeff Foster, Karen Villanueva-Matkovich, David G. Sudbeck, Allen Campbell, Linda Dailey, Cindy Beane, Regenia Mayne, Teresa Brown, Kim Stitzinger Jones

I. COURT MONITOR REPORT

David Sudbeck stated that he had received one grievance from a patient at Sharpe regarding comments made by a former employee that he would be moved to a forensic penitentiary if his behavior did not improve. The patient requested to be moved from Sharpe but the court order stated his placement specifically at Sharpe. David denied the grievance as he is unable to alter a court order regarding a patient's placement. A second grievance has been received but has not yet been investigated.

David also informed the Parties that a response to the Request for Resolution will be filed on or around December 20, 2013, from Respondents and that he will continue his investigation once it has been filed.

David stated that the Request for Resolution regarding the co-occurring unit at Bateman prompted a visit to the facility and that the population is much different than it was four years ago. Dr. Masood informed David that approximately 40% of the population has co-occurring disabilities. David requested a plan of action by DHHR to incorporate a larger unit with two treatment teams by January 8, 2014. Once he receives this plan he will issue his formal recommendations.

A contract for up to twenty-five forensic beds between DHHR and a Highland facility in Clarksburg was signed on December 2. There are currently patients in these beds. Eric Kennedy currently runs the facility but will be leaving on December 28. Upon Eric's departure Mike

Casdorff will be the interim CEO of the facility. The introduction of new beds in the system should assist with the forensic populations at both Sharpe and Bateman.

Sharpe also has an Assistant Forensic Coordinator position open with the intent of changing the Forensic Coordinator to a state system.

BHMF released their survey. Lydia Milnes stated that due to computer issues several questions regarding the survey were not sent to the Parties but that they would be forthcoming once the computer issues were resolved. David stated that the survey report was thorough and one of the most comprehensive reports released by DHHR. Vickie Jones informed the Parties that a second report will be released. David stated that he would like to see unspent funds and how they would be directed in the second report. Vickie stated that unspent funds are returned to the bureau and are re-appropriated. She also assured David that a chart of the funds that have been moved to the community will be sent to his office. Vickie clarified that the lack of information concerning hospital data is due to the fact that this survey encompassed community-based services only, but that data regarding hospitals could be included in the comment section. David inquired as to the average cost of a diversion bed. Vickie responded that the average bed charge is between \$700 and \$750 and that a forensic bed is \$800. In her facilities the cost is approximately \$450. Even though the charge for civil diversions is approximately \$700-\$750, this amount is not always required to be paid because a significant percentage of our patients are Medicaid eligible which reduces the amount of state general revenue dollars paid for their care in a diversion facility. Regina Mayne asked if this was considered a diversion to which Vickie answered that everything outside of DHHR is a contractual relationship and therefore a diversion.

II. BHMF REPORT

Vickie Jones stated that after studying the Gatekeeping Policy in place in June 2012 and reviewing recommendations by the providers and the Court Monitor, changes that will take place as a result of Secretary Bowling's strategic vision for the DHHR will result in changes to the Gatekeeping Policy, but not until a later date. There is a goal of providing more services at a community-based level and that significant changes in grant agreements would provide services from birth to death. There is a plan in development which will be implemented July 1, 2014, that will allow changes to the current policy in cooperation with the provider community. David saw no issue with this plan as long as the provider community is involved in the changes.

David also inquired as to the decision to divide BHMF in to three divisions with three separate secretaries and how this would affect BHMF overall. Karen Villanueva-Matkovich responded that she is making changes in order to have a more efficient system to manage, prioritize, and respond to information as it becomes available. This is not a means to add additional layers of bureaucracy but rather to streamline and distribute information more effectively.

Vickie also informed the Parties that the Governor's Advisory Council on Substance Abuse's Annual Report to the Governor's Office will be submitted by December 31, 2013.

III. PETITIONER REPORT

Petitioner had no report at this time but would like to follow up on overtime reports at the next meeting.

IV. BMS REPORT

Cindy Beane stated that upon meeting, the Primary Care Integration Work Group and Quality Care Group decided that due to their overlapping goals and similar membership they would condense themselves into one group. This currently leaves two groups: the Process Work Group and the recently consolidated group. The Process Work Group asked for a clear list of all processes they intend to resolve. The Consolidated Group is investigating measures to be collected and measures from CMS. The group intends to look into what is to be measured and what measurements are West Virginia specific. Though not all in the Behavioral Health Community are excited with the arrival of managed care, there is a consensus that issues can be positively navigated.

Cindy also informed the Parties that the year-end data for the TBI waiver showed that twenty-seven applicants are receiving services. There were eighty-nine applications received with sixty-eight of them not medically eligible. There is continued outreach and slow but steady growth. Lydia Milnes inquired as to why three members discontinued their membership to which Cindy responded that she did not have an answer but would investigate and send her results to the Court Monitor's office. [The complete TBI report is attached below.]

V. OTHER

Next Meeting: Tuesday, February 4, 2014
10:00 a.m.-12:00 noon
Covenant House
600 Shrewsbury Street, Charleston, WV 25301

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

MNER Summary: Since February 1, 2012, the Administrative Service Organization (ASO) has received, processed and/or made initial determinations on one hundred and twelve (112) Medical Necessity Evaluation Request Forms (MNER)/applications.

- ❖ Of those one hundred and twelve (112) applications (submitted MNER):
 - 9 applications were closed - no evidence of a TBI
 - 13 applications were withdrawn
 - 1 application pending assessment
 - **89 applicants received medical eligibility determination assessments**
 - 21 applicants did not meet medical eligibility
 - 68 applicants were considered medically eligible based on their PAS and Rancho Los Amigos scores
 - 8 applicants were denied financial eligibility
 - 14 applicants withdrew their case after medical eligibility was determined
 - 14 applicants are awaiting financial eligibility
 - 2 applicants deceased prior to notification of medical eligibility
 - 27 applicants have been enrolled as members as of November 30, 2013
 - 3 members have discontinued their enrollment as of November 2013

# 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	
February	4	February	5	February	
March	2	March	10	March	
April	4	April	4	April	
May	3	May	9	May	
June	1	June	4	June	
July	2	July	10	July	
August	5	August	10	August	
September	7	September	5	September	
October	1	October	10	October	
November	3	November	5	November	
December	2	December		December	
2012 Total	34	2013 Total	78	2014 Total	
Total since program implementation February 2012					112

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 378 Email contacts indicated below).

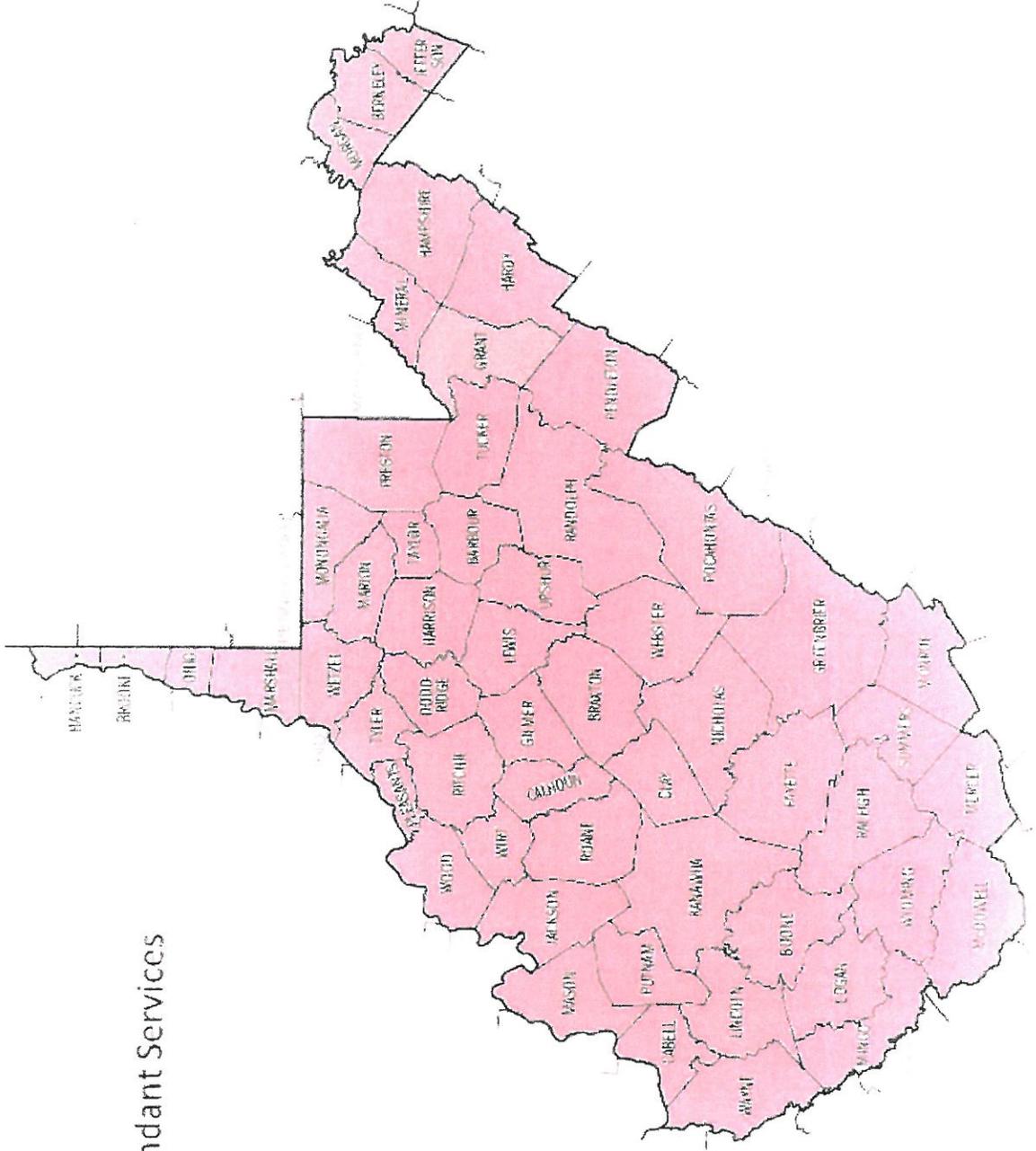
Since March of 2012, ASO staff has conducted statewide outreach efforts to include: scheduled face-to-face meetings within the facilities, presentations at local and statewide settings and meetings with the directors of the Aging and Disability Resource Centers.

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).

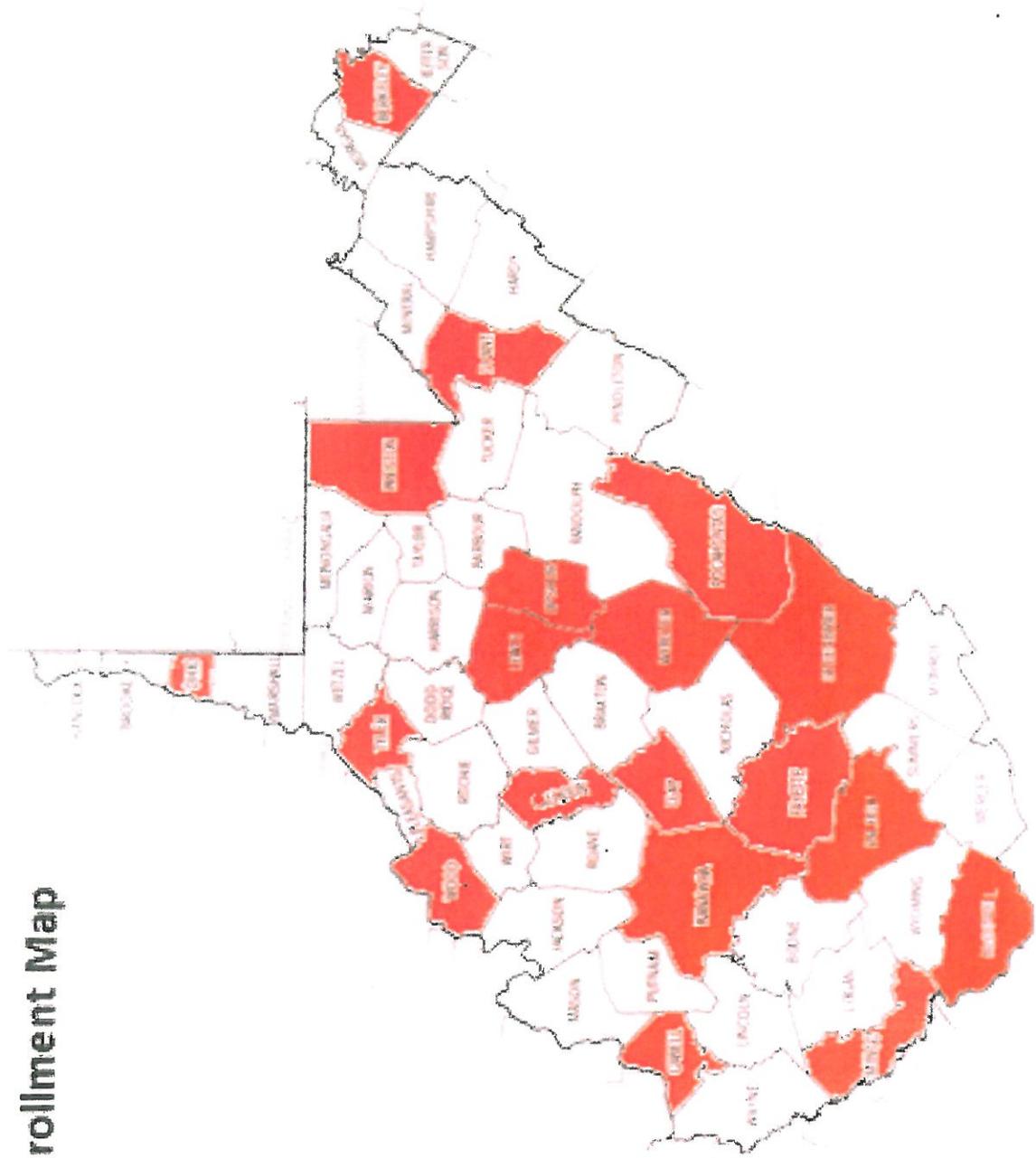
The ASO targets outreach for each agency selected to provide services for enrolled members. Outreach focuses on providing guidance in completing the financial eligibility process and compliance with Medicaid forms. Additionally, the ASO provides technical assistance to resolve specific member needs.

Types and Numbers of Outreach Efforts Made for the WV TBI Waiver Program	
Type of Outreach	# Outreach Efforts
General Outreach	
Email	*378
Phone	814
Face-to-Face	472
Mail	110
Presentations/Outreach (ex. WV NASW Conference, local DHHR)	58
For Enrolled Providers	
Training-Webinar	23
Face-to-Face Technical Assistance	44
Phone Technical Assistance	239
Total	2,138

Personal Attendant Services



Member Enrollment Map



Cognitive Rehabilitation Therapy

