

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.

MONDAY, DECEMBER 6, 2010

MINUTES

PRESENT: Vickie Jones, Joshua Martin, Regenia Mayne, Teresa Brown, Cindy Beane, Jacklyn Gonzales, David G. Sudbeck, Sheila Kelly, dan connery

I. PLAN OF ACTION (SHARPE OVER-BEDDING)

David Sudbeck presented a chart of "Formal Recommendations and Plan of Action" for the group's review. The chart calls for an Action Plan and Target Date for each of the six Formal Recommendations in the Sharpe report. BHHF had submitted a plan for each of the six. David asked for updated information on Formal Recommendations #2 (Nurse's Stations) and #5 (Mandatory Over-Time) on the Plan of Action. Vickie Jones stated that a multidisciplinary committee had been formed and had agreed to a standardized approach to the construction of the nurse's stations. She believes that the plan is in the final stages of review and consensus before a draft is circulated. David stated that he had received an e-mail from staff concerned that their input was not being heard. BHHF expects to be able to meet the deadline for submission of a draft plan to the Office of the Court Monitor. Vickie indicated that an existing policy concerning mandatory over-time would be sent to the parties for review and comment. BHHF is reviewing the policy but welcomes comments and suggestions from any of the Parties. David suggested that this issue be addressed at the next Meeting of the Parties on January 19, 2011.

II. CRU MEETING – 12.14.10

David distributed a document regarding Crisis Stabilization Services and CSU beds available across the State. He stated that upon correction from the Parties, he would distribute these documents at a meeting of CSU providers to be hosted by the Office on December 14, 2010. Vickie Jones commented that she believed that some data needed to be revised and that she would forward corrections to the Office of the Court Monitor by Thursday, December 9. At issue is the fact that some CSUs cannot keep all beds occupied with crisis consumers and therefore offer beds to the state psychiatric facilities for "stepdown" of stable patients. This changes the bed counts to some degree. She stated concerns that a clear definition of "Crisis Stabilization Services" needs to be

developed in order to differentiate between crisis services and a less acute level of care. Sheila suggested that BMS has clearly directed APS as to the definition of Crisis Stabilization and that the definition also delineated what services were reimbursable through the charity care formula. The BHHF does not have funding at the present time to support any other more “subacute” level of crisis care since the majority of charity care dollars fund CSU utilization. It appears that some Centers may not be staffed or constructed to be able to provide that level at all times. This may cause patients to be committed rather than diverted to CSU. The definition of Crisis Services may need to be addressed and clarified at the meeting on the 14th. Vickie indicated her intent to attend the meeting and to bring along relevant BHHF staff.

III. BHHF REPORT - WESTBROOK

Vickie Jones stated that Westbrook Year One was up and at least partially operational. Upon a recent visit, she was impressed with the physical facilities. She also reported that Pretera Year One was partially operational, working on reaching full capacity by the end of the calendar year. Concerning Year Two providers, she stated that she had received final proposals from both FMRS and Northwood. She also received a proposal from Valley, though it exceeded the budget and will need to be re-worked. She reported that funds for Independent Care Coordinators and Co-Occurring Disorder programs were designated, proposals were in the final stages of approval, and the BHHF expected to have the new programs in effect very soon. David Sudbeck suggested that his office schedule a meeting for Year Three providers in January or February 2011.

IV. PETITIONER REPORT

The Petitioner had no report at this time.

V. BMS REPORT (TBI)

Cindy Beane distributed a written report on the status of the TBI waiver. The BMS has been in frequent contact with CMS about the proposed waiver and CMS has notified BMS informally that it intends to exercise its right to “stop the clock” on the 90 day review cycle in order to engage in more thorough discussions with the BMS about some issues of concern. Two primary issues were detailed: 1) Population specific training and certification of waiver staff (the BMS had proposed a phased-in eligibility for certification which CMS did not approve) and 2) Environmental Accessibility Adaptation (BMS is unwilling to individually certify providers of EAA modifications as this would prove extraordinarily burdensome and would affect the operation of the other two much larger waiver programs). BMS will formally notify the Office of the Court Monitor once Cindy receives official notification that the clock has been stopped. BMS is optimistic that some agreement can be reached with CMS in the near future.

VI. SPECIAL ASSISTANT REPORT

Sheila Kelly distributed two large media articles regarding the national problem of prescription opioid and benzodiazepine abuse. As a case in point, she presented an analysis of all admissions to Sharpe and Bateman Hospital from November 1st to the 8th, 2010. Between 50 and 66 percent of all individuals admitted during the time frame were admitted for treatment of addictions, primarily opioids (often in combination with alcohol and benzodiazepines). Several individuals with diagnoses of developmental disabilities had been admitted during the time frame. Vickie is concerned that the state psychiatric facilities are not a proper treatment environment for individuals

with intellectual and other developmental disabilities. Sheila stated that she fully agreed however certifiers often have no alternatives for placement. Very few individuals with severe behavior disorders will be accepted in private psychiatric facilities. She intends to complete an audit of all admissions to state psychiatric facilities in November as soon as Sharpe provides her with the remaining data from the final days of admissions in November. She will make this data available to the Parties.

Sheila indicated she had researched the medical clearance issues raised by Jennifer at the last meeting and had some information to present. Due to Jennifer's inability to attend today, David suggested the issue be discussed at January 19, 2011 meeting

Sheila provided an update on the CSM contract. CSM has been back in the state and has now met personally with almost all of the primary stakeholder groups including executives from both state hospitals and the majority of the comprehensive centers. CSM also attended the consumer directed Mental Health Planning Council for input. CSM will be completing an online survey of the Comprehensive Centers and finishing some alternative state research into Medicaid Utilization and expects to have a draft report submitted prior to the end of the calendar year.

VII. SHARPE AUDIT – REVIEW

Based on the Agreed Order, an audit of patient rights as delineated in 64 CSR 59 at Sharpe Hospital by a committee made up of Legal Aid and the Court Monitor was completed and distributed to the Parties. David Sudbeck expressed his agreement with the findings of the audit. He suggested that any questions or need for clarification be addressed to Bill Albert of Legal Aid. A similar audit of Bateman Hospital will be conducted shortly after the first of the new year.

VIII. OTHER

David Sudbeck stated that a meeting with Bill Albert of Legal Aid is scheduled on Wednesday, December 8, 2010 to discuss the Request for Resolution filed by Mountain State Justice with regard to the perceived inadequacy of advocacy available to patients at Sharpe Hospital.

Vickie Jones stated that Parker Haddix has been named CEO of Sharpe Hospital, and that the position of CEO of Bateman Hospital has been offered but not yet accepted or declined by the potential candidate.

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