

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.

TUESDAY, JANUARY 5, 2010

MINUTES

PRESENT: Susan Perry, Jennifer Wagner, Charles Dunn, Kevin Stalnaker, Teresa Brown, Regenia Mayne, Joshua Martin, Cindy Beane, Shana Phares, Belle Manjong, Vickie Jones, David G. Sudbeck, Sheila Kelly, dan connery

REVIEW OF MINUTES OF NOVEMBER 11, 2009

Minutes were reviewed. Charlie Dunn expressed some concern that it was his recollection that the Court Monitor had indicated that the Monitor's Office would obtain consent from each patient whose chart the Special Assistant reviewed. The SA indicated that although the Court Monitor had, in fact, initially said that, she had never agreed to that as it would make it impossible for her to look at aggregate and clinical data in any convenient way. The issue is to be decided in the coming week with the Secretary's Office. Minutes were approved as written.

SELECTION OF NATIONAL EXPERT

Two proposals were received in response to the request for a national expert and were distributed to the parties. Peter Pastras proposed a budget of \$72,250. Hartman & Associates proposed a budget of \$54,000. The Court Monitor and Plaintiff felt that at first glance, the Pastras proposal appeared superior. However Respondent requested additional time to peruse the information and review an approximate budget. Vickie Jones will contact the Court Monitor's Office within one week with their decision.

FORENSIC SERVICES REPORT

A Floor Plan for a proposed 50 bed forensic unit was distributed. Kevin Stalnaker explained that construction is on hold for a Bed Needs Analysis. Vicki Jones explained that this analysis is necessary so that only the needed number of beds are constructed. The Department believes that an increase in community supports and services will decrease the need for as many forensic beds as had been projected. David Sudbeck stated concern on increasing the number of beds. Vickie Jones assured him that the intent is to decrease the number of beds. An approximate completion date was stated as late 2011/early 2012.

CONDUCTING AUDITS RELATIVE TO RULE 64

David Sudbeck requested that Legal Aid create an assessment instrument to audit and review the requirements of Rule 64CSR59 which both Parties are able to review and approve prior to its being utilized. Jennifer Wagner expressed concern that the development of the instrument would prevent timely auditing of the current status of the rights of patients in Sharpe and Bateman hospitals. David Sudbeck stated that the Court Monitor's Office would contact Legal Aid to obtain a completion date.

REVIEW OF MOUNTAIN HEALTH CHOICES

David Sudbeck explained that he had distributed a survey regarding the positive and negative impact of Mountain Health Choices to all licensed behavioral health providers and is awaiting return of the surveys with comments. Only two surveys have been returned thus far, but the closing date is January 15, 2010. He plans to have results from this survey available on February 1, 2010. Susan Perry questioned whether DHHR is also able to respond to the survey. David Sudbeck assured her that all commentary is welcomed. The findings will be organized and distributed to the Parties for comment before a report is submitted to Judge Bloom. Jennifer Wagner proposed an invitational meeting between the providers, consumer's association and DHHR to discuss these issues. The Court Monitor will take this suggestion under advisement.

COURT MONITOR'S REPORT TO THE COURT

David Sudbeck stated that the first Court Monitor's report to the Court will be issued the week of January 25, 2010. The Parties will receive and be able to review the draft report solely for accuracy within the next two weeks. Objections to content may be made to Judge Bloom after he receives it.

TBI WAIVER STATUS

Cindy Beane distributed a flow chart explaining the process of submission to CMS and implementation of the TBI Waiver Application. The process will take approximately 18-months, start to finish. A series of questions and comments regarding the waiver draft from Jennifer Wagner

was not received by DHHR and will be forwarded from the Court Monitor's office to Cindy Beane, Vickie Jones and Shana Phares for review. The TBI waiver comments were submitted by Petitioner to Charles Dunn for the Department, as well as David Sudbeck, on December 28, 2009, with a request to forward appropriately. David Sudbeck suggested that the Department put together a draft description of the additional services available through current Medicaid policy that would supplement and complement the services available to individuals who qualify for the Waiver.

SPECIAL ASSISTANT

Sheila Kelly distributed a draft document describing the issues surrounding the process of commitment that had been identified at the meeting of the certifiers convened by the Office of the Court Monitor in December. The Office of the Court Monitor is soliciting additions or corrections to this document, which it intends to utilize as the core of a report to be issued in February. The Office will determine the form that report may take in the coming weeks. The Department is welcome to submit corrections or comments at the earliest opportunity. There was discussion of some of the issues identified in the draft.

The SA also expressed concern at her continuing inability to access client records and patients pending resolution of the privacy/access issues. The Court Monitor has a meeting with Counsel from the Secretary's Office later this week to attempt to resolve.

OTHER

Jennifer Wagner requested current information on the timeline to achieve items of the Agreed Order. Vicki Jones stated that after a meeting on January 20, 2010, a better timeline would be available and that she would have this information at the next Meeting of the Parties. She also agreed to respond to each item by January 15, 2010.

Next Meeting: Wednesday, February 17, 2010
10:00 a.m.-12:00 noon
Covenant House
600 Shrewsbury Street, Charleston, WV 25301