

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, JULY 30, 2012

### MINUTES

**PRESENT:** Vickie Jones, Dee Weston, Dan Hedges, Wendy Elswick, Regenia Mayne, David G. Sudbeck, Sheila Kelly, Kim Stitzinger Jones, Wil Jones, Allen Campbell, and dan connery.

#### I. COURT MONITOR REPORT

David Sudbeck distributed a document compiled by Sheila Kelly titled "Hartley Supportive Residential and Day Treatment Programs" to the Parties for review in preparation for a meeting with Acting Secretary Rocco Fucilio. The document is a brief update of the status of the residential, day program and supportive living programs funded by the Agreed Order. Vickie indicated the Bureau will be performing an additional review which will provide more specific information regarding all programs funded as specified by the Agreed Order.

David discussed his visit to Hopemont Hospital to review seven patients with Traumatic Brain Injury. Of the seven, six appear to continue to need continuous nursing care and are therefore, in his opinion, appropriately placed. The remaining individual has been referred for TBI waiver services and his status will be updated as the process proceeds. Dee Weston inquired as to the needs of the other six patients, and David stated that because it appeared that all of those individuals required 24 hour care, they would not receive the services they needed through the TBI waiver as it did not cover 24 hours of skilled care in a community setting. David also stated that he was planning a similar visit to the TBI patients at Jackie Withrow Hospital.

David inquired as to the status of modifying the Court Monitor Order regarding the grievance process for appeals from patients in the state psychiatric hospitals. Wendy Elswick explained the current procedure within BHHF for the filing and resolution of grievances, and the advisability of having this process handled within the Court Monitor's Office in order that the management of grievances was conducted by a more autonomous entity. After much debate from Petitioner, an impasse was reached: while all parties agreed that the appeals process to the Court Monitor's Office was acceptable, Petitioners are concerned regarding management of grievances if

the Court Monitor's Office would be dissolved in the future. David stated that since the basic issue of the grievance process was mutually agreed upon, the parties should devise and agree upon an additional paragraph to the draft Order regarding the grievance process post-Court Monitor. The Parties will consult on this issue by email and draft an agreed resolution which they shall bring back to the next Meeting of the Parties for approval.

## **II. BHHF REPORT**

Vickie indicated that the Bureau is in the process of circulating draft commitment figures to the Providers for comment. The data dates back to 2008-09 and includes the last fiscal year. Sheila presented two charts regarding commitment. The first was prepared using data received from the Supreme Court of Appeals and represents all Probable Cause hearings resulting in hospitalization in calendar year 2011. Unfortunately the Bureau prepares their data by fiscal year and the Supreme Court by calendar. Additionally, the Supreme Court data includes juvenile commitments and does not include final commitments, while the Bureau data does not include juvenile commitments and does include final. Given that there were, according to the Supreme Court data, 350 final commitment hearings held in 2011, it appears that the data provided by the Supreme Court and that provided by the Bureau are reasonably consistent at an annual commitment level of about 3500 probable cause plus final commitments in 2011. She rank-ordered the commitments by county by commitment rate per 1000 population. Clearly the border counties are experiencing heavy numbers of people crossing the river from Ohio for commitment. This particularly appeared to have an impact on Ohio, Wetzel, Mason, Wood and Cabell counties, which represent five of the top 7 counties of commitment by per capita. Sheila has requested updated information from the Supreme Court and will continue to compile the data for review. Vickie indicated that the Bureau will be breaking the commitment data out by Center as requested by Petitioner.

In addition, Sheila presented a brief summary chart prepared using Bureau data of individuals committed and total commitments from 2009 to the present. There is no consistent downward trend in the data regarding numbers of individuals committed although 2011-12 commitments were lower overall than 2008-09 commitments by about 7%, with 5% of that being from FY09-FY10.

## **III. PETITIONER REPORT**

Regenia Mayne stated that she had not received the grant contract information she had requested at the last meeting. She is interested in the recently approved State Plan Amendment that enables the two Institutions for Mental Disease, Highland Hospital and Riverpark, to bill Medicaid for inpatient psychiatric treatment of adults between the ages of 22 and 64 (treatment for the other ages had always been funded by Medicaid) Kim Stitzinger-Jones and Vickie Jones stated that the information had been sent. Regenia said that she had received some information, but it was not what she had requested. After discussion, it was agreed that Regenia would return the information she received for clarification and new contract information would be sent to her. Regenia was also advised to contact Cindy Beane or Alva Page for further information and clarification.

Regenia also expressed her displeasure with the failure of the second back-up generator at Sharpe during the recent loss of electricity due to severe storms.

## **IV. BMS REPORT**

Kim Stitzinger Jones stated that BMS had no report at this time and apologized that Cindy Beane had been forced to miss the meeting.

#### **V. SPECIAL ASSISTANT REPORT**

Sheila had essentially reported earlier on the Hartley update on residential, day program and supported living, and on the commitment data she had prepared. BHHF will be doing additional reports on both issues in the near future.

Next Meeting: September 24, 2012  
10:00 a.m.-12:00 noon  
Covenant House  
600 Shrewsbury Street, Charleston, WV 25301

## Update

### Hartley Supportive Residential and Day Treatment Programs

Prepared by the Office of the Court Monitor

July 27, 2012

#### Original Items from the Agreed Order:

##### Year One:

- Three group homes (24 beds)
- 39 Supportive Living Slots
- 3 Day Treatment Programs

##### Year Two:

- Two group homes (16 beds)
- 52 Supportive Living Slots
- 2 Day Treatment Programs

##### Year Three:

- Two group homes (16 beds)
- 52 Supportive Living Slots
- 2 Day Treatment Programs

#### Current Implementation

##### Pretera Center:

- Three group homes totaling 14 beds in Huntington and 4 in Charleston
- 8 supportive living slots in Huntington and 8 in Charleston
- 2 Supportive Living slots in Mason county
- One day treatment program in Huntington subcontracted to the Consumer's Association (no report received from Pretera when requested regarding utilization)
- The Huntington and Charleston group homes and supported living programs are fully utilized. No report on Mason county as yet.
- Additionally, Pretera was funded for 6 detoxification beds in their new Pinecrest Center.

##### Westbrook (Parkersburg and outlying counties)

- Roane County: 3 Supportive Living slots
- Jackson County: 3 Supportive Living slots

- Day program for Roane and Jackson counties
- Wood county: 11 supportive living slots serving about 25 individuals
- One group home of 6 beds
- One day treatment program and a drop in center.

FMRS (Beckley and outlying counties)

- 25 supported living slots serving 18 people currently (full capacity by end of August projected)
- One non-site based day treatment program serving the 18 supportive living individuals
- FMRS also received funds for three care coordinators/crisis workers assigned to the BARH emergency room and inpatient program for linkage and referral.

Southern Highlands (Princeton and outlying counties)

- One group home currently under construction scheduled to open October or November
- 16 supportive living slots serving 49 individuals

United Summit Center (Clarksburg and outlying counties)

- One group home for 8 beds opening this week
- 18 supportive living slots converted to an 18 bed short term substance abuse treatment unit currently being renovated and expected to open in Fall of 2012
- One day treatment program in process of renovation scheduled to open in Fall of 2012.

Healthways (Brooke and Hancock counties)

- Received two supported living slots not yet funded in this year's grant agreement. Pending resolution with BHHF.

Eastridge (Martinsburg and eastern Panhandle counties)

- Grant to reserve one bed in step down unit for individuals whose commitment has expired but no placement yet located (has served three individuals to date)

Northwood (Wheeling and lower part of northern panhandle)

- One group home serving 8 individuals
- 24 supportive living slots serving 33 individuals at present time
- One day treatment program serving 55 individuals at present

Valley Health Systems (Morgantown and outlying counties)

- Four supportive living slots serving five consumers at present
- One day treatment program serving 22 consumers at present

## Summary

All group homes are currently allocated. Five of seven are open and two are scheduled to open this Fall.

All day programs are currently allocated. Six are open, one pending opening in Fall.

124 supportive living slots are funded (18 of the 124 converted to substance abuse treatment in Clarksburg). Remaining funds for supportive living slots were converted to a variety of community based programs statewide. Originally there were 143 supportive living slots in the agreed order. On the first cycle, not all were requested or allocated, leaving 1.08 million dollars in funding which was re-distributed evenly among all the comprehensive centers, some of it for additional supportive living slots, and other funds were used for other programming purposes.

County	Probable Causes calendar year 2011	Census in 2000	Commitments per 1,000
Ohio	256	47,427	5.40
Wetzel	87	17,693	4.94
Mason	122	25,957	4.71
Wood	352	87,986	4.00
Kanawha	616	200,073	3.08
Pocahontas	27	9,131	2.96
Cabell	284	96,784	2.93
Marion	134	56,598	2.37
Logan	84	37,710	2.22
Boone	49	25,535	1.92
Marshall	63	35,519	1.77
Monongalia	144	81,866	1.76
Raleigh	114	79,220	1.43
Lincoln	30	22,108	1.35
Calhoun	9	7,582	1.20
Harrison	81	68,652	1.18
Jackson	32	28,000	1.14
Barbour	17	15,557	1.09
Tyler	10	9,592	1.05
Brooke	26	25,447	1.02
Wayne	42	42,903	0.97
Doddridge	7	7,403	0.95
Mingo	26	28,253	0.92
Braxton	13	14,702	0.88
Taylor	14	16,089	0.87
Pendleton	7	8,196	0.86
Putnam	42	51,589	0.81
Hampshire	14	20,203	0.69
Nicholas	18	26,562	0.67
Fayette	31	47,579	0.65
Greenbrier	22	34,453	0.63
Preston	18	29,334	0.61
McDowell	15	27,329	0.54
Roane	8	15,446	0.51
Webster	5	9,719	0.51
Berkeley	37	75,905	0.48
Clay	5	10,330	0.48
Jefferson	20	42,190	0.47
Mineral	12	27,078	0.44
Randolph	12	28,262	0.42
Hancock	13	32,667	0.39
Hardy	5	12,669	0.39
Grant	4	11,299	0.35
Wyoming	8	25,708	0.31
Gilmer	2	7,160	0.28

Monroe	3	14,583	0.20
Mercer	9	62,980	0.14
Morgan	2	14,943	0.13
Pleasants	1	7,514	0.13
Ritchie	1	10,343	0.09
Summers	1	12,999	0.07
Lewis	1	16,919	0.05
Totals	2955	1,771,746	1.66

*Prepared utilizing data  
supplied by The WV  
Supreme Court of Appeals.*

Commitment data for a four year period

Data supplied by BHHF

July 26, 2012

Year	Number of individuals committed	Total commitments
FY 2009	3,391	3,664
FY 2010	3,263	3,496
FY 2011	3,177	3,346
FY 2012	3,277	3,405

- Caution: May include final commitment data for the fiscal years included