

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 MARCH 31, 2010

MINUTES

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

I. REVIEW OF MINUTES

Jennifer Wagner pointed out that she had asked the representatives from BMS if APS would continue to provide prior authorization for all behavioral health services under the revised state plan amendments to Mountain Health Choices and that she had been advised that this would, in fact, be the case. It was agreed that this would be reflected in the minutes.

II. CLINICAL SERVICES MANAGEMENT-PAYMENT ISSUES

David requested input from the parties for resolution of the issue of payment for Clinical Services Management. He suggested expanding the contract that BHHF currently holds with West Virginia Advocates to include payment of CSM, such that WVA would act as a fiscal intermediary. Currently there is \$75,000.00 in the Court Monitor budget that could be transferred to WVA to pay for these services. Kevin Stalnaker suggested contacting Craig Richards to develop a plan. David Sudbeck stated that a conference call with Peter Pastras of Clinical Services Management resolved issues that were raised at the last Meeting of the Parties, and that he is waiting for a final contract from CSM. Shana Phares suggested and confirmed that a conference call to resolve this issue will take place on Thursday April 1, 2010.

III. PROCESS STEPS FOR AGREED ORDER

David Sudbeck suggested that a chart similar to the one Cindy Beane created for the TBI Waiver timelines be created to track the process steps for the Agreed Order. Jennifer Wagner suggested that this chart include approximate lengths of time to complete each step. Shana Phares stated that a meeting was occurring today (March 31, 2010) to discuss this very issue and that a chart would be available within 30 days.

IV. BHHF REPORT

Kevin stated that progress was being made on the Agreed Order. Providers are in the process of identifying properties in the areas targeted as being heavy users of inpatient psychiatric care that could be used for group homes so that new buildings would not have to be constructed. In addition the providers and the Department are attempting to identify long term consumers in the state hospitals or in the community who would be appropriate for Group Home Placement. The first meeting of the Prescription Medication group was held on Monday. The meeting was very productive and attendees made substantial progress toward identifying some of the problems/issues and suggesting resolution for those issues. The next meeting is scheduled in a few weeks. Kevin also stated that a letter has been sent to Linda Richmond with regard to creating a Memorandum of Understanding with Mental Hygiene Commissioners about the use of CSU beds for commitments. The Highland Assessment Center, which opened in late February, has been successful in diverting some admissions from Bateman but the operation and potential effectiveness of the unit has been limited to some degree by the decision to only accept voluntary patients to the Assessment Unit. Many individuals with substance abuse, in particular, have been choosing to be committed rather than to go voluntarily to the Assessment Unit. As a result, Highland has reduced the number of beds in the Assessment Unit temporarily and increased the beds available for detoxification. Those beds filled up almost immediately. The new unit has opened at Bateman and the second unit, which will be targeted for individuals with substance abuse and mental health disorders, will open once Bateman can recruit another psychiatrist. Shana Phares commended Kevin on his dedication and hard work to achieve these results.

V. PETITIONER REPORT

Jennifer Wagner expressed concerns that the revised timelines put forth by the Bureau with regard to care coordination and the group homes did not appear to be accurate given current progress to completion. Kevin Stalnaker stated that job descriptions for care coordinators are being reviewed and that property is being located in target areas for the group homes. Jennifer expressed her concern that the process was taking so long. Shana Phares stated that the Department is concerned about quality of care and consistency across the system and was therefore moving ahead cautiously and with attention to these issues. The Department will provide more accurate timelines after their meeting this afternoon. Jennifer asked if the Department could accurately identify the budget line into which the one million dollars for the intensive day treatment for individuals with co-occurring disorders had been placed. Kevin stated that he was unsure but would do some research and report back to the group.

Jennifer then expressed concern about some news that she had heard that all clinic and rehabilitation services for the TANF and SSI populations were going to be moved into Managed Care Organizations other than APS. Shana confirmed that this was the case and that the Department was attempting to provide integrated behavioral health and primary care through this method. The Managed Care Organizations are to begin their contracts July 1, 2010, with the TANF population and there is a plan to gradually phase in the SSI population. Both Sheila and Jennifer expressed considerable concern about the use of capitated managed care methodologies for individuals with severe and persistent mental illness. They believe that the SSI population is highly likely to experience chronic and recurring mental illness which would require extensive case management not typically available through a managed care organization. Shana indicated that APS had no financial interest in ensuring that individuals received early interventions designed to avoid later more intensive treatment and that the Department believed that MCOs would be more motivated to provide such early interventions. There was discussion about the nature of case management in managed care and Shana will research how the MCOs define case management. She confirmed that each MCO will have their own identified array of behavioral health services and will be setting their own reimbursement rates for their network of providers. Jennifer is concerned that the Agreed Order mandates a Utilization Review which has currently been contracted to CSM. The sudden introduction of MCOs into the behavioral health service array would appear to be counterproductive to the purpose of the employment of the consultant. She believes that the introduction of managed care may conflict with the terms and spirit of the agreed order. Shana requested all of Jennifer's concerns in writing within the next ten days and indicated that the Department would attempt to respond to those concerns.

VI. SPECIAL ASSISTANT REPORT

Sheila Kelly stated that she has visited several of the diversion hospitals and plans to visit the rest in the coming month. These initial visits are to become acquainted with the hospitals and to arrange protocols for clinical visits. Additional visits will be made for interviews with consumers and to collect data. Those visits will be performed on a pre-arranged schedule depending upon the number of individuals typically diverted to the facility. A document that Sheila had developed analyzing some of the demographic characteristics of the population of the state hospitals and the diversion hospitals during the week of March 16th to the 23rd was discussed. Jennifer Wagner suggested that information on MR/DD be added to the current data with reference to the state hospital population. Sheila will discuss with the Bureau's Data Team but pointed out that many individuals in the state hospital are likely to be intellectually disabled at a mild level but remain unidentified/undiagnosed.

The Commitment Report was distributed. The section "Review of Strategies to Consider" was discussed and Kevin and Sheila have assignments for further discussion and work. Several of the recommendations made in the report are already in process at the Bureau. Some may be difficult to implement (e.g., the recommendation regarding avoidance of commitment for individuals in nursing homes or who are guilty of domestic violence). Kevin and Sheila will report back to the group at the next meeting. The group was particularly supportive of the recommendation with regard to a peer review/quality assurance process for mental hygiene commissioners and for the annual certifier continuing education meeting to be coordinated by the Bureau.

VII. PSYCHIATRIC BED DEVELOPMENT IN WEST VIRGINIA

David asked about the Department's stated objective of performing a needs assessment for inpatient psychiatric beds. Shana and Kevin indicated that the study was progressing and that several options were being considered. Kevin expressed the continuing concern of the Department with regard to the ever-increasing forensic population and stated that the Bureau is looking into methods of diverting individuals whose crimes were non-violent from hospitalization at Sharpe. Kevin stated that the Forensic Group Homes had been quite successful in reducing the forensic population in the hospital but that many people were court-ordered for long periods of time. Individuals with intellectual disabilities who are also sexual offenders are particularly difficult to place even though they create little problem in the facility. Unfortunately, many "learn" inappropriate behaviors from other institutionalized individuals. One possible potential source of assistance may be the Highland project in Clarksburg at United Hospital Center. The Department has hired some consulting staff including Rocco Fucillo to work on the problems.

VIII. AUDIT INSTRUMENT – REVIEW

The group quickly reviewed the Audit Instrument proposed by Legal Aid. A timeline of ten days was given for the parties to more thoroughly review the audit instrument and return questions/comments to the Court Monitor for amendment if necessary. Jennifer Wagner suggested an initial quarterly audit review which could be changed to an annual review after the first year. It was agreed that two patients from each unit (for a total of eight to ten) from various demographics would be sufficient for the review. David Sudbeck asked the group their opinion and input with regard to who should be considered "auditors". It was agreed that Legal Aid advocates from both hospitals would complete the audits together to provide a balanced perspective. David expressed his interest in participating in the audits as well.

IX. OTHER

TBI TIMELINES

Cindy Beane stated that the contract with CED had been reviewed and that it was felt that CED could legitimately assist with completing the Public Forums. Pat Winston was in the process of coordinating the forums with a timeline date of May 1, 2010.

Sheila and Cindy have been working on the Waiver Manual and hope to have a draft available within the specified timelines.

Next Meeting: Wednesday May 5, 2010
10:00 a.m.-12:00 noon
Covenant House
600 Shrewsbury Street, Charleston, WV 25301