

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 Martin, et al.

WEDNESDAY MAY 5, 2010

MINUTES

PRESENT: Deron Wilkes, Vickie Jones, Jennifer Wagner, Charles Dunn, Teresa Brown, Joshua Martin, Cindy Beane, Kevin Stalnaker, Regenia Mayne, David G. Sudbeck, Sheila Kelly, dan connery

I. REVIEW OF MINUTES

Minutes reviewed and approved. Deron Wilkes was introduced as the new coordinator of Hartley implementation for the DHHR. He will be working out of the Secretary's Office.

II. CSM – Update on Contract

David Sudbeck stated that a final contract was delivered to his office on Monday May 3, 2010. It was then forwarded to Craig Richards for perusal before final signature by David. Vickie Jones believes that the contract will be returned to David within two days. Jennifer Wagner inquired as to a time frame of when CSM would begin work in the state. Vickie Jones responded that upon invoice from CSM a check could be cut within two weeks, enabling CSM to schedule the initial meeting between CSM staff and the project management team.

III. PROCESS STEPS FOR AGREED ORDER

Though a specific outline of timeframes of activities in the Agreed Order was not yet available, Vickie Jones made the following status updates concerning each activity:

Group Homes:

Three locations (Charleston, Huntington and Parkersburg) have been selected based on highest commitment levels. Pretera will establish three homes (six bed and eight bed homes in Huntington and a four bed home in Charleston) while Westbrook will establish two 3-bed homes in Parkersburg. It was agreed that this would meet the requirements set forth in the Agreed Order and that the homes could open within 30 to 60 days from Pretera's perspective. However, the Westbrook proposal was not fully complete requiring additional documents which would require additional time. Jennifer Wagner suggested more aggressive growth in the Charleston area in Year Two of the program. Both Pretera and Westbrook would only need a Change Order to their existing contracts to implement these homes. David Sudbeck requested information concerning the future of the Group Home issue for his July Court Report. Devon Wilkes stated that David should receive detailed information on all of the Hartley issues by the end of May and the information will be updated on a regularly scheduled basis.

Supportive Housing:

Pretera plans to establish eight supported living situations in Huntington and eight in Charleston. Westbrook plans to support sixteen individuals in Wood County for a total of 32 slots. There are also proposals for other areas with the high commitment rates. The Department has budgeted for an average \$40,000 per supported slot. Providers will be able to move money as needed from one "slot" to another as long as their overall average falls within the \$40,000 budget.

Day Treatment Centers:

There has been considerable discussion regarding the definition of the term *Day Treatment*, as different providers have different situations in their catchment areas and therefore different needs. Vickie indicated that the dust seems to be settling on an agreement that there will be two types of day treatment center, labeled for the moment as "day treatment center" (DTC) and "day treatment program" (DTP). The difference will be that DTC's will provide behavioral health treatment in a structured therapeutic setting, potentially billable to Medicaid, whereas DTP's will be operated similarly to Senior Citizen Centers, with little treatment provided but considerable support and recreational activities. This type of program would be financially supported without Medicaid cost offsets. David indicated that he believed that day treatment should be provided on an individual basis in the community, hopefully involving part time or full time supported employment and/or basic living skills training. Cindy and Sheila pointed out that such services are currently available through Medicaid as Community Focused Treatment however few providers are willing to deliver the service. Sheila added that although providers disagree on many issues with regard to day programs, there seems to be universal agreement among them that Day Treatment of either type should be based in a building. Vickie Jones stated that the Department is only able to provide or contract for services that providers are willing to deliver, which has limited options to some degree. There are currently no proposals for Day Treatment of either type submitted, though Provider responses on the topic are due back by May 7, 2010.

Care Coordinators:

Because the Care Coordination Program has experienced some “mission drift” from its original intent, new, more standardized requirements are being established and implemented. The new Care Coordinators in the agreed order are being dispersed based on need through several counties so that all geographic areas will have access to the program (in the original allocations, four centers did not receive care coordinators as they were not perceived to have a commitment excess) and so that areas with high volumes of commitment will have more care coordinators. Vickie indicated that the independent care coordinators will be required to work collaboratively with the Centers on issues involving commitment and consumers at risk of commitment.

Highland Assessment Center:

The Highland Assessment Unit has been in operation for about two months. Although the program is considered to be successful, it has not served as many individuals as the Department and the Unit would like. Average daily census is about 2.5 patients. The Unit was originally established as ten beds but is now being reduced to five beds, temporarily until additional counties can be added to the list of counties who can access the program. There are amendments to mental hygiene processes required on a county by county basis in order for the county to participate. Cabell County was invited to join this pilot program but refused due to transportation issues. Boone and Putnam Counties have now been invited and a meeting is being set up by Linda Richmond-Artimez to see if this is something those counties would like to participate in. If so, necessary adjustments to their current processes will be required. Weekly TPC calls are held with Linda Richmond-Artimez, Highland, Prester, MH Commissioners and DHHR to assure success of the program.

Prescription Practices:

The Prescription Practices committee has been meeting and Sheila and Dr. Keefover have developed a draft discharge sheet to be faxed from each diversion facility to the respective receiving facility upon patient discharge. Kevin is chairing the committee and indicated that he has every expectation that the work on the protocol and procedures will be completed within the agreed time frame. Sheila stated that she believed that each Center needed to identify a specific person who would be responsible for dealing with the hospitals, receiving the faxes, making appointments, and arranging the mechanics of discharge at the receiving end. The Bureau could maintain a list of those people with their contact information and fax numbers on the Bureau’s web site so it could be easily updated and accessed when personnel changed. Larger Centers could have more than one individual identified.

Jennifer Wagner requested clarification on the \$1 million dollars for the co-occurring IOPs described in the agreed order. Vickie admitted that there had been some confusion on the issue and that she was not sure exactly how the mediation had indicated that the money was to be used. Sheila stated that although she was not at the mediation, she suspected that providers involved in the Robert Wood Johnson suboxone grant were hoping to use the money to create non-Medicaid supported IOPs to provide group therapy for participants and perhaps some funding for Suboxone. Jennifer stated that she remembered something of that sort from the mediation discussion with providers and that she would check her notes and report back.

IV. MANAGED CARE ORGANIZATION

Petitioners and Court Monitor sent approximately seventy questions to the Secretary's Office several weeks ago. They had been promised responses at today's meeting. None were as yet forthcoming. Cindy Beane stated that the Department's response was being reviewed by the Secretary's legal counsel and would be sent back within a week (by May 12, 2010). Jennifer Wagner requested that all Parties be notified of timeline changes for implementation of the MCO project when they are finalized. Jennifer also expressed her willingness to submit her request for information in the form of a FOIA. Jennifer and Sheila both expressed their concern that the implementation process appeared disorganized and would be confusing to both providers and consumers. As yet, providers have not received any written notification from BMS that some Medicaid members would not be able to receive services outside an as yet to be constructed network, nor have consumers who will be affected been informed. Sheila also gave Cindy a copy of a SAMSHA report regarding the effect of managed care on commitments in other states. Most state laws, including that of WV, allow a managed care organization or other insurer to refuse to pay for treatment for an individual that has been ordered as the result of a court action, either civil or criminal. In other states in which acute inpatient psychiatric care is part of a managed care range of covered services, this has resulted in many more patients being treated as commitments in state psychiatric hospitals because of denial for payment in privately operated psychiatric acute care units.

V. BHHF REPORT

The Community Support Workgroup provider members have submitted a draft proposal to the Bureau regarding the year 2 and 3 group homes, supported living slots, and day treatment centers. Vickie stated there is not a consensus reached by all providers regarding the funding of each of these programs. Vickie also stated she has concerns about the proposed funding as well since the plan recommends group homes should cost \$350K per home (rather than the proposed \$500K) and that Day Treatment Centers should cost significantly less than the proposed amount noting the services offered are still under discussion. The BHHF is working with the Community Support group to obtain some clarification and consensus before moving forward on the proposal and the BHHF is still waiting for clarification on the group home amounts due to the variance in number of beds in each. In addition, Vickie stated the BHHF is in agreement with the recommendations made that if there is funding amounts left over, they will be utilized for community support programs/services. Jennifer and WVA expressed a desire to review the proposal and Sheila indicated that she would forward it to them.

VI. PETITIONER REPORT

Jennifer Wagner stated that her concerns were previously stated and answered during other segments of the meeting.

VII. SPECIAL ASSISTANT REPORT

Sheila Kelly stated that she has now visited all of the diversion hospitals except OVMC, City Hospital, and Chestnut Ridge. She is scheduled to visit OVMC next week but may have to delay by one week because of a scheduling conflict. In general she has been impressed by the cooperativeness and openness of the diversion programs. Though she has been gathering data it has been uncategorized until now, and she requested input from the Parties as how best to quantify it to meet their needs for information. BHFF is interested in whether alternative options were explored prior to commitment. Jennifer Wagner suggested that an individual's county of origin and desired discharge placement area would also be beneficial. Sheila promised to summarize her notes on systemic issues described by the diversion facilities or observed in her record reviews/interviews, and will circulate to the Parties. She noted that each geographic area has unique types of problems. Substance abuse is a problem statewide however. Vickie indicated that BHFF is working on a state substance abuse plan and could use any data Sheila can provide.

VIII. TBI WAIVER (PROCESS/UPDATE)

Cindy Beane stated that the Public Forums had been completed and then distributed a synopsis of stakeholder feedback. David Sudbeck inquired as to whether changes would be made to the application based on the results of the forums. Cindy stated that minor changes might occur but that in general the public forums supported the array of services the current draft described. Cindy, her staff, and Sheila have been working on the Utilization Manual and hope that a complete draft should be available to the Parties by June 1, 2010, as described in the timelines.

IX. AUDIT INSTRUMENT – (COMMENTARY/FINALIZE)

It was agreed that the Audit Instrument was complete and that Legal Aid should be notified to begin its implementation.

X. COURT MONITOR'S WEBSITE

David Sudbeck stated that the website for his office should be operational within two weeks and offered links to any of the Parties interested.

XI. DATA ISSUES WITH JUVENILE COMMITMENTS

Sheila described to the group a concern that there is no central data repository for attempted or completed commitments of juveniles. In general, the system has no organized way of knowing how many juveniles are committed or from what counties. The Supreme Court now keeps centralized records of numbers of commitments with some basic data but has no information

regarding those who are released from hearing. Jennifer felt that juvenile commitments were a part of the charge of the Parties and the Office of the Court Monitor and that Sheila should pursue the issue if possible. Sheila will meet with Linda Artimez to discuss retrieval and organization of this data.

XII. CO-OCCURRING I.O.P.

This information was discussed in an earlier segment of the meeting.

XIII. OTHER

Kevin Stalnaker asked the group its opinion regarding a possible development of secure 12 bed group homes for forensic patients in order to get them out of Sharpe Hospital if clinically appropriate on a case by case basis. There was some hesitation expressed by the Court Monitor and plaintiffs about the size of the proposed homes. Sheila suggested the possibility of licensing such homes as Assisted Living Facilities (ALFs), and providing treatment through DTP's at a local Center. ALFs can be larger according to the licensure statutes and would require equivalent supervision and structure. The topic will be discussed further when the Department has more firm plans.

Next Meeting: Wednesday June 16, 2010
10:00 a.m.-12:00 noon
Covenant House
600 Shrewsbury Street, Charleston, WV 25301