

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, OCTOBER 30, 2013

MINUTES

PRESENT: Kim Walsh, Vickie Jones, Lydia Milnes, Karen Villanueva-Matkovich, David G. Sudbeck, Allen Campbell, Linda Dailey, Cindy Beane, Holly Sheldon, Regenia Mayne, Teresa Brown, Kim Stitzinger Jones, Belle Manjong, dan connery.

I. COURT MONITOR REPORT

David Sudbeck informed the group of a visit by The Honorable Judge Bloom to Bateman Hospital on Monday, October 28, 2013. David along with those members who accompanied the Judge agreed that it was a useful and informative tour of the facility. David also stated that the Judge plans to visit Sharpe Hospital in the future and had requested documentation regarding the hospital turnover rate to be provided at any upcoming hearing.

David raised the reply by Mountain State Justice regarding the gatekeeping policy and inquired to a response by Respondent. Vickie Jones stated that she would follow up and address the reply at the next Meeting of the Parties on December 18, 2013.

David distributed and reviewed the updated Patient Grievance list. After explaining his decision to accept two connected grievances filed by advocates regarding the sexual misconduct by a staff to a patient, he stated that a formal response was not written due to the fact that the facility had already initiated a plan of action and terminated the staff member. He also explained that another pending grievance would be addressed at his visit to Sharpe the following week.

David inquired as to the status of a response to the Request for Resolution regarding the co-occurring unit at Bateman. Allen Campbell distributed the response to the Parties and after perusal David stated that he would issue recommendations by December 18, 2013, after his visit and investigation at Bateman. Lydia Milnes suggested that David also interview advocates during his visit. David assured her that advocates would be included among those he would interview during his investigation.

David inquired as to the status of the Managed Care work groups. Cindy Beane explained that three work groups, Quality, Process and Integration, had been established to address specific concerns regarding the implementation of managed care. She explained that these groups consist of a vast array of individuals from MCO's, advocates, behavioral health providers and BHHF. She explained that the work groups were being productive in addressing concerns and issues that have arisen due to the confusion over the implementation of managed care. David inquired as to a prospective timeline for implementation. Cindy stated that, though no definitive timeline is in place, the process would be done in a timely manner based upon the progress of the work groups.

David also inquired as to the announcement of the hiring of the CEO at Bateman Hospital. Vickie Jones stated that though no formal announcement has been made, a CEO has been chosen and that a formal announcement would be made once all of the internal documentation and processes are complete. David stated that since the selection of a CEO has occurred but not formally announced, he would not need to issue a formal response once the announcement of the CEO is made public.

David inquired as to the status of the Providers Survey conducted by BHHF. Vickie distributed hard copies of the survey to the group for their perusal. This survey was conducted by BHHF to monitor the effectiveness of programs developed by Providers and covers fiscal years 2010 to 2013. Vickie also stated that an additional survey would occur early in calendar year 2014. David requested that written responses from Petitioner regarding additional information, interpretation of data or data not included be made by the next Meeting of the Parties on December 18, 2013.

David provided the Parties with copies of Legal Aid's audits of Bateman and Sharpe hospitals. Linda Dailey stated that she had met with Bill Albert of Legal Aid to address concerns over vague terminology in the audits which did not provide sufficient information as how to address or prioritize problem areas. While she understood that anonymity is a priority, she stated there are certain situations where an issue cannot be addressed properly without information identifying a specific patient. She proposed that a document analogous to those used by OHFLAC to identify patients by number be provided to address and rectify specific issues. After a lengthy discussion regarding the protection of privacy of patients, it was agreed that future audits include identifying information solely for the use by upper management to address specific issues and concerns. It was also agreed that patient identification is exempt from previous audits unless consent is otherwise given by the patients themselves.

II. BHHF REPORT

Vickie stated that she had no additional report at this time.

III. PETITIONER REPORT

Lydia Milnes stated that after meeting with Linda Dailey to discuss the information compiled in the overtime documentation report, a current, concise report would be needed to evaluate the proper usage of overtime. Linda stated that a new report was being formulated and that the document would be sent to the Parties on a monthly basis beginning in December, which would document overtime usage from November forward. Lydia also inquired as to the status of the reimbursement for a patient's missing art work. Vickie stated that she would contact Craig Richards as to the status of this situation.

IV. BMS REPORT

Cindy Beane reported that she was encouraged by the increase in those being served by the TBI Waiver. David inquired as to which provider groups were being most employed by participants. Cindy stated that the majority of participants were choosing the self-directed option and not provider assistance. She also updated the Parties on the progress of the program with the attached documents [see below].

V. OTHER

Next Meeting: Wednesday, December 18, 2013
10:00 a.m.-12:00 noon
Covenant House
600 Shrewsbury Street, Charleston, WV 25301

**WV Traumatic Brain Injury (TBI) Waiver Program
Implementation through September 2013**

MNER Summary: Since February 1, 2012, the Administrative Service Organization (ASO) has received, processed and/or made initial determinations on ninety-seven (97)-Medical Necessity Evaluation Request Forms (MNER)/applications.

- ❖ Of those ninety-seven (97)-applications (submitted MNER):
 - 8 applications were closed, no evidence of a TBI
 - 13 applications were withdrawn
 - **76 applicants received medical eligibility determination assessments**
 - 19 applicants did not meet medical eligibility
 - 57 applicants were considered medically eligible based on their PAS and Rancho Los Amigos scores
 - 6 applicants were denied financial eligibility
 - 14 applicants withdrew their case after medical eligibility was determined
 - 8 applicants are awaiting financial eligibility
 - 2 applicants deceased prior to notification of medical eligibility
 - 27 applicants have been enrolled as members as of September 30, 2013

# MNER Applications Received Per Month for the WV TBI Waiver Program	
Month/Year	# MNER Received
February 2012	4
March 2012	2
April 2012	4
May 2012	3
June 2012	1
July 2012	2
August 2012	5
September 2012	7
October 2012	1
November 2012	3
December 2012	2
January 2013	6
February 2013	5
March 2013	10
April 2013	4
May 2013	9
June 2013	4
July 2013	10
August 2013	10
September 2013	5
Total	97

Outreach efforts Summary: In January 2012, the ASO initially sent emails to all existing Aged and Disabled Waiver Homemaker Agencies, Case Management Agencies, I/DD Waiver Providers and Personal Care Providers. In early February 2012, all applicable referral sources including Nursing Homes, Hospitals and Licensed Rehabilitation Centers were emailed. This correspondence announced the TBI Waiver Program, outlined eligibility requirements and supplied copies of the application (MNER) form. (*These emails are not included in the 374 Email contacts indicated below).

Since March of 2012, ASO staff has conducted statewide outreach efforts to include: scheduled face-to-face meetings within the facilities, presentations at local and statewide settings and meetings with the directors of the Aging and Disability Resource Centers.

Additionally, the ASO offers/provides training and technical assistance to the thirty-two (32) enrolled provider agencies. Training topics include the Medicaid requirements for covered services (Case Management and Personal Attendant Services) and general information about supporting individuals with TBI.)

The ASO targets outreach for each agency selected to provide services for enrolled members. Outreach focuses on providing guidance in completing the financial eligibility process and compliance with Medicaid forms. Additionally, the ASO provides technical assistance to resolve specific member needs.

Types and Numbers of Outreach Efforts Made for the WV TBI Waiver Program	
Type of Outreach	# Outreach Efforts
General Outreach	
Email	*374
Phone	773
Face to face	461
Mail	107
Presentations/Outreach (ex. WV NASW Conference, local DHHR)	57
For Enrolled Providers	
Training-webinar	21
Face-to-Face Technical Assistance	43
Phone Technical Assistance	227
Total	2,063

