

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, SEPTEMBER 24, 2012

MINUTES

PRESENT: Vickie Jones, Dee Weston, Wendy Elswick, Regenia Mayne, David G. Sudbeck, Sheila Kelly, Kim Stitzinger Jones, Allen Campbell, Cindy Beane and Teresa Brown.

I. COURT MONITOR REPORT

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. Dee indicated that an impasse continues and that the Plaintiffs intend that the issue be discussed before the Judge during the October 17, 2012 hearing, already scheduled. While all parties continue to agree 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 he is very disappointed in lack of ability of the Parties to resolve this issue as he has two appeals in his Office to be investigated once the agreement is reached.

David stated that the Fourth Annual Report of the Court Monitor is at the printers and should be distributed on October 10, 2012.

II. BHHF REPORT

Vickie distributed the breakdown of commitments according to the Comprehensive Center involved. This data was requested by Dan Hedges. Northwood has the highest commitment rate in the state, followed by Westbrook, as a percentage of population, however it should be emphasized that Bureau data includes final commitments and out of state commitments. The state of Ohio contributes heavily to the commitment rates of Northwood, Prestera and Westbrook. Also, the chart presented by Sheila based on the Supreme Court's data seems reasonably consistent with Bureau data considering that the Supreme Court's data used by Sheila in preparation for her chart includes only probable cause commitment hearings held in calendar year 2011. Vickie recommends that no

conclusions be drawn definitively on the data regarding Centers since those Centers with counties with inpatient psychiatric units and high numbers of community based services tend to draw many more commitments, particularly from emergency rooms. Therefore, Wood, Kanawha, Cabell, Monongalia, Mercer, Ohio and Raleigh counties are likely to have disproportionately high rates. Sheila emphasized that Lewis (Summit Center) and Cabell (Prester) county data will appear artificially inflated since Bureau data (not Supreme Court data) includes final commitment hearings which numbered over 350 during the period. Those hearings are normally held in the counties holding Sharpe (Lewis) and Bateman (Cabell) hospitals.

Vickie mentioned that closure of one of the inpatient psychiatric units at St. Mary's Medical Center had a negative impact on Bateman populations for a time. She remains concerned that there is still no marked downturn in commitments in spite of increased funding for community-based services. She noted an abrupt downturn in commitment rates in 2009-2010 before Hartley funding was implemented followed by an upturn in commitment rates in following years for many Centers. Sheila speculated that some of the upturn in rates may be due to Centers accepting very difficult patients into their group homes and supported living programs, leading to relatively high readmission rates.

Vickie will distribute a model overtime report proposed by the Bureau for comment. The report will be distributed to the Parties electronically. She and Wendy commented that the overtime situation is challenging to monitor for a variety of reasons that affect statistical analysis.

Vickie updated the group on the Governor's \$7.5 million dollars in substance abuse funding to the various regions of the state. RFPs have been posted on the BHHF website for the specific proposals recommended by the task forces in each geographic region. Two RFPs remain to be posted. Proposals are due October 15. Sheila asked if construction funds would be available for new detoxification and stabilization units. Vickie indicated that there would be no grant funds available however it is possible that first year funds could be utilized to develop or renovate properties if arranged in advance with the Bureau.

III. PETITIONER REPORT

No report.

IV. BMS REPORT

Cindy Beane reported on the status of the TBI Waiver. Two Medicaid members are currently enrolled. An additional 15 members have met medical eligibility standards for the program however individuals with TBI are having trouble meeting the financial eligibility standards as many of the patients have been employed and therefore accrued assets and disability income which prevents them from meeting the financial cutoff. She believes this may be a problem for 10 of the 15 who met medical eligibility. Also individuals sometimes do not meet the standards specified by the PAAS assessment tool for nursing home level of care. Sheila asked if the tool could be amended to be more appropriate for a TBI population and Cindy replied that the Bureau had been directed in a prior court case not to allow amendments to the PAAS. In response to a question posed by Regenia, she confirmed that the Bureau will accept applications from an individual who has been sent home from the hospital after a TBI so long as the application was made while the individual was in the hospital.

Sheila inquired about the status of Community Focused Treatment (CFT) currently under review by CMS. Cindy answered that CMS had asked further questions about the cost methodology

used to establish rates for the program (The agreed order specifies a rate that increased from \$1.63 per unit to \$2.25 beginning in July, 2009). BMS has asked that the “clock” be stopped to allow them to more thoroughly prepare a response to questions. The questions were received only last week.

V. SPECIAL ASSISTANT REPORT

Sheila distributed a chart prepared using data from the Supreme Court that analyzes all probable cause hearings held in calendar year 2011 (it should be noted that the data may change slightly in the future depending on data “cleansing” by the Supreme Court staff but is generally in its final form). The data sorts for juvenile commitments and out of state commitments. Sheila reported that a fair number of individuals were too disturbed or intoxicated to provide birth dates and are therefore “unknown”. She assumes many of them are juveniles. Even with out of state commitments removed, the counties bordering Ohio have the highest per capita rate of commitment. The majority of the top six or seven have inpatient psychiatric units serving as a “draw” for other county populations. She suspects that many of the Eastern West Virginia counties have low commitment rates as individuals go to Virginia for treatment, particularly in the Eastern Panhandle counties.

VI. OTHER

Wendy asked for an arrangement with Plaintiffs to submit/exchange witness lists prior to the October 17 hearing. She suggested and Plaintiffs agreed to exchange witness lists by October 10, 2012.

Next Meeting: November 15, 2012
10:00 a.m.-12:00 noon
Covenant House
600 Shrewsbury Street, Charleston, WV 25301

Probable cause commitment data
calendar year 2011

County	Adults	Juveniles under 18	Unknown birthdate	Total	Out of state residents	Adjusted Total (total minus out of state)	County Census in 2000	Commitments per 1,000 (adjusted)
Barbour	3	0	0	3	0	3	15,557	0.19
Berkeley	26	0	8	34	0	34	75,905	0.44
Boone	45	3	1	49	0	49	25,535	1.92
Braxton	10	1	1	12	0	12	14,702	0.82
Brooke	25	0	0	25	2	23	25,447	0.90
Cabell	373	5	0	378	34	344	96,784	3.56
Calhoun	8	1	0	9	0	9	7,582	1.20
Clay	2	0	2	4	0	4	10,330	0.39
Doddridge	7	0	0	7	0	7	7,403	0.94
Fayette	28	0	0	28	0	28	47,579	0.58
Gilmer	2	0	0	2	0	2	7,160	0.28
Grant	4	0	0	4	0	4	11,299	0.36
Greenbrier	47	9	1	57	0	57	34,453	1.65
Hampshire	10	2	0	12	0	12	20,203	0.59
Hancock	12	1	0	13	0	13	32,667	0.40
Hardy	4	1	0	5	0	5	12,669	0.40
Harrison	74	2	4	80	0	80	68,652	1.17
Jackson	19	2	5	26	0	26	28,000	0.93
Jefferson	18	1	1	20	2	18	42,190	0.43
Kanawha	513	44	26	583	7	576	200,073	2.88
Lewis	4	0	0	4	0	4	16,919	0.24
Lincoln	24	6	1	31	0	31	22,108	1.40
Logan	82	2	0	84	0	84	37,710	2.23
Marion	128	1	2	131	2	129	56,598	2.25
Marshall	57	4	2	63	0	63	35,519	1.77
Mason	108	6	2	116	10	106	25,957	4.09
McDowell	11	0	0	11	0	11	27,329	0.40
Mercer	36	1	1	38	1	37	62,980	0.59
Mineral	12	0	0	12	0	12	27,078	0.44
Mingo	25	3	0	28	1	27	28,253	0.96

Probable cause commitment data

calendar year 2011

Monongalia	110	5	29	144	7	137	81,866	1.67
Monroe	3	0	0	3	0	3	14,583	0.21
Morgan	1	0	1	2	0	2	14,943	0.13
Nicholas	16	0	0	16	0	16	26,562	0.34
Ohio	236	15	5	256	49	207	47,427	4.36
Pendleton	6	0	0	6	0	6	8,196	0.74
Pleasants	0	1	0	1	0	1	7,514	0.13
Pocahontas	25	0	1	26	0	26	9,131	2.86
Preston	18	0	0	18	1	17	29,334	0.58
Putnam	31	11	0	42	1	41	51,589	0.80
Raleigh	103	2	2	107	2	105	79,220	1.30
Randolph	13	0	0	13	0	13	28,262	0.46
Ritchie	1	0	0	1	0	1	10,343	0.10
Roane	6	1	0	7	0	7	15,446	0.45
Summers	1	0	0	1	0	1	12,999	0.08
Taylor	14	0	0	14	0	14	16,089	0.87
Tyler	10	0	0	10	2	8	9,592	0.84
Upshur	3	0	0	3	0	3	23,404	0.13
Wayne	33	6	3	42	0	42	42,903	0.98
Webster	4	0	0	4	0	4	9,719	0.41
Wetzel	82	5	0	87	3	84	17,693	4.77
Wood	322	10	18	350	36	314	87,986	3.57
Wyoming	8	0	0	8	0	8	25,708	0.31
Totals	2763	151	116	3030	160	2870	1,795,150	1.14

Commitments per
1,000 (adjusted)
highest to lowest
rate

County	
Wetzel	4.77
Ohio	4.26
Mason	4.01
Cabell	3.56
Wood	3.37
Kanawha	2.75
Pocahontas	2.75
Marion	2.25
Logan	2.23
Boone	1.88
Marshall	1.72
Greenbrier	1.63
Lincoln	1.36
Monongalia	1.32
Raleigh	1.3
Calhoun	1.2
Harrison	1.1
Mingo	0.96
Doddridge	0.94
Wayne	0.91
Brooke	0.9
Taylor	0.87
Tyler	0.84
Putnam	0.8
Braxton	0.75
Jackson	0.75
Pendleton	0.74
Hampshire	0.59
Fayette	0.58
Preston	0.58
Mercer	0.57
Randolph	0.46
Roane	0.45
Mineral	0.44
Webster	0.41
Hancock	0.4
Hardy	0.4
Jefferson	0.4
McDowell	0.4
Grant	0.36
Berkeley	0.34
Nicholas	0.34
Wyoming	0.31

Gilmer	0.28
Lewis	0.24
Monroe	0.21
Barbour	0.19
Clay	0.19
Pleasants	0.13
Upshur	0.13
Ritchie	0.1
Summers	0.08
Morgan	0.07

**Bureau for Behavioral Health and Health Facilities
Commitments by Catchment Area - 2009**

Catchment	Count of Commitments	Percent by 1000	2000 Census
Northwood Health Systems	451	4.481364084	100639
Westbrook Health Services	465	2.698217436	172336
Prestera Center	1040	2.188188411	475279
Valley Health Care System	366	1.990352771	183887
Logan-mingo Area Mental Health	126	1.910161757	65963
United Summit Center	188	1.63711728	114836
Southern Highlands	188	1.620452175	116017
Seneca Health Service, Inc	98	1.227070682	79865
Fmrs	168	1.088216814	154381
Appalachian Community Health Center	45	0.603670316	74544
Potomac Highlands Guild	46	0.57901693	79445
Eastridge Health Systems, Inc	58	0.435965664	133038
Healthways, Inc.	13	0.223698248	58114
Unknown / Not Reported	412		0
Total	3664	20.68349257	1808344

**Bureau for Behavioral Health and Health Facilities
Commitments by Catchment Area - 2010**

Catchment	Count of Commitments	Percent by 1000	2000 Census
Northwood Health Systems	367	3.646697602	100639
Westbrook Health Services	475	2.756243617	172336
Prestera Center	1016	2.137691756	475279
Logan-mingo Area Mental Health	130	1.970801813	65963
Valley Health Care System	346	1.881590324	183887
United Summit Center	175	1.523912362	114836
Fmrs	202	1.30845117	154381
Seneca Health Service, Inc	98	1.227070682	79865
Southern Highlands	115	0.991234043	116017
Potomac Highlands Guild	60	0.755239474	79445
Eastridge Health Systems, Inc	67	0.503615508	133038
Appalachian Community Health Center	36	0.482936252	74544
Healthways, Inc.	20	0.344151151	58114
Unknown / Not Reported	389		0
Total	3496	19.52963576	1808344

**Bureau for Behavioral Health and Health Facilities
Commitments by Catchment Area - 2011**

Catchment	Count of Commitments	Percent by 1000	2000 Census
Northwood Health Systems	389	3.865300728	100639
Westbrook Health Services	440	2.553151982	172336
Prestera Center	939	1.975681652	475279
Valley Health Care System	322	1.751075389	183887
Logan-mingo Area Mental Health	100	1.516001395	65963
United Summit Center	170	1.480372009	114836
Seneca Health Service, Inc	116	1.452451011	79865
Fmrs	164	1.06230689	154381
Healthways, Inc.	48	0.825962763	58114
Southern Highlands	78	0.672315264	116017
Appalachian Community Health Center	49	0.657329899	74544
Eastridge Health Systems, Inc	83	0.623881898	133038
Potomac Highlands Guild	47	0.591604255	79445
Unknown / Not Reported	401		0
Total	3346	19.02743514	1808344

Bureau for Behavioral Health and Health Facilities
Commitments by Catchment Area - 2012

Catchment	Count of Commitments	Percent by 1000	2000 Census
Northwood Health Systems	385	3.825554705	100639
Prestera Center	1428	3.004551011	475279
Westbrook Health Services	377	2.187587039	172336
Logan-mingo Area Mental Health	130	1.970801813	65963
Valley Health Care System	306	1.664065431	183887
United Summit Center	182	1.584868856	114836
Seneca Health Service, Inc	119	1.490014399	79865
Fmrs	178	1.152991625	154381
Southern Highlands	100	0.861942646	116017
Healthways, Inc.	40	0.688302302	58114
Eastridge Health Systems, Inc	82	0.616365249	133038
Appalachian Community Health Center	40	0.536595836	74544
Potomac Highlands Guild	36	0.453143684	79445
Unknown / Not Reported	2		0
Total	3405	20.0367846	1808344