

**(LEAVE TO FILE GRANTED ON SEPTEMBER 4, 2018)**  
**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MASSACHUSETTS**  
Western Division

ROSIE D., et al.	)	
Plaintiffs	)	
	)	C.A. No.
v.	)	01-30199 - MAP
	)	
CHARLES BAKER, et al	)	
Defendants	)	

**(Substituted and Corrected) Affidavit of Marylou Sudders**

I, Marylou Sudders, hereby depose and state:

1. I am the Secretary of the Massachusetts Executive Office of Health and Human Services (EOHHS). I have held this position since January 2015. The information contained in this affidavit is based on my personal knowledge, information I obtained from EOHHS personnel who report to me, or documents maintained by EOHHS in the regular course of its operations as an agency of the Commonwealth of Massachusetts.
2. I am a professionally educated social worker with a Master's degree in social work from Boston University.
3. Since 2007, I have been on the faculty of Boston College School of Social Work. From 2012 to 2015, I was a full time Associate Professor and Chair of the Health & Mental Health concentration at the school. Currently, I am a visiting professor.
4. I was the Commonwealth of Massachusetts' Commissioner of Mental Health from 1996 to 2003 and before the *Rosie D.* litigation commenced. In that role, it was clear to me that many children with the most serious mental health conditions with either public or

private insurance were not receiving the mental health treatment and supports that they needed. While serving as Commissioner, I advocated strenuously and secured the passage of the Commonwealth's first mental health parity law, Chapter 80 of the Acts of 2000. It was the first time since 1978 that the Commonwealth had improved commercial coverage for mental health benefits for children and adults.

5. From 2003 until 2012, I served as Chief Executive Officer and President of the Massachusetts Society for the Prevention of Cruelty to Children (MSPCC), a large child welfare and mental health non-profit agency. MSPCC was a licensed, outpatient mental health organization and provider of services established as a result of the *Rosie D.* Remedy Order, including serving as one of the original Community Services Agencies (CSAs) at two locations in the Commonwealth: Lowell and Dimock/Boston. In these clinical offices, MSPCC provided Intensive Care Coordination (ICC) and Family Partner services in order to assure family voice and choice. Additionally, MSPCC also provided In-Home Therapy and Therapeutic Mentoring and offered services in Spanish, Portuguese, and Haitian-Creole.
6. In 2006, MSPCC and Children's Hospital Boston published "Children's Mental Health in the Commonwealth: The Time is Now", which examined the system of care for all children with mental health needs in the state. From this seminal work, the Children's Mental Health Campaign was formed by five organizations: MSPCC, Children's Hospital Boston, Health Care for All, Health Law Advocates and the Parent/Professional Advocacy League. The organization has grown to include a diverse coalition of more than 140 endorsing groups who are dedicated to ensuring that all children receive the highest quality mental health care.

7. In 2008, the Campaign was pivotal in the passage of two landmark laws: An Act Relative to Children's Mental Health (Chapter 321 of the Acts of 2008) and An Act Relative to Mental Health Parity (Chapter 256 of the Acts of 2008).
8. In my current role as Secretary, I have prioritized behavioral health services throughout EOHHS with regard to policy development and implementation, and funding. Specifically, I regularly meet with MassHealth on behavioral health, including the continued work that the Children's Behavioral Health Initiative (CBHI) has done to address and remedy the violations found by the Court in this case.
9. For example, MassHealth has demonstrated its commitment to paying competitive rates – and regularly reevaluating and increasing such rates – for remedy services over the years the remedy has been in place. Since the services were first introduced, MassHealth has increased rates for remedy services eight times, including an overall approximately 29% rate increase for ICC (Master's level), 23% increase for Family Partners, and 10% increase for the remaining remedy services since 2009.
10. Additionally, MassHealth recently obtained federal approval to provide over \$7 million over five years directly to CSAs, over and above rate increases, to strengthen their infrastructure, workforce development, and capacity building efforts and with the goal of continually improving the quality of ICC services. Initiatives identified by providers that are being funded include, for example, implementing or improving electronic health recordkeeping; enhanced training for staff in the wraparound model and reflective supervision, and strategies to integrate mental health treatment with primary care providers and pediatricians.

11. Furthermore, MassHealth is making additional investments in CSAs and other remedy providers through various Statewide Investments programs authorized under the Commonwealth's Section 1115 Demonstration. Such investments include, for example, a student loan repayment program for behavioral health professionals (including clinicians who work at CSAs and deliver IHT) under which the state will repay up to \$30,000 of a student's loan in exchange for a two-year commitment to work in a community setting (e.g., community mental health center or CSA). CSAs are also eligible to receive Technical Assistance in the form of standardized trainings in the fundamentals of high fidelity wraparound to supplement training materials already used by CSAs and in the fundamentals of integrated behavioral health, focusing on how CSAs can collaborate with primary care providers and specialty medical providers to support the total health of the youth.
12. In my current role as Secretary, I have heard from parents, providers, and advocacy groups, regarding the positive impact CBHI services have had on the children of the Commonwealth.
13. For example, I am working closely with and co-chairing with the Massachusetts Division of Insurance (DOI) listening sessions related to a proposed DOI bulletin<sup>1</sup> to clarify that intermediate behavioral health services for children and adolescents (some of which are almost identical to the type covered by MassHealth through CBHI) must be covered by commercial insurance pursuant to the Commonwealth's mental health parity law. These

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<sup>1</sup> The draft bulletin is available at <https://www.mass.gov/files/documents/2018/05/17/Bulletin%202018-xChild-Adolescent%20Behavioral%20Health%20Services%20%28Draft%29%2004122018.pdf>

proposed covered benefits include but, are not limited to, intensive care coordination, in home therapy, therapeutic mentoring and family partner services.

14. At these sessions, I heard numerous and compelling stories of families who had been so desperate to obtain these services for their children that they resorted to purchasing MassHealth as secondary insurance or engaged in extreme efforts to establish MassHealth eligibility simply to obtain access to these services, which are generally not covered by commercial plans. Many of these families and providers attested to the difference CBHI services made in helping youth and families address conditions and behaviors that might otherwise have resulted in removal of children from their home, hospitalization, or other 24-hour placement. They provided powerful testimony that behavioral health treatment for youth was bifurcated; it was far better if their family member had access to MassHealth coverage in order to receive CBHI services than what available from commercial coverage. The National Alliance on Mental Illness (NAMI) Massachusetts operates COMPASS, a statewide helpline that supports people as they navigate the mental health and related systems for themselves or family members, and called the MassHealth system a “point of pride.” A true and correct copy of the public comments filed by NAMI are attached to this affidavit as Exhibit 1.

15. At these DOI hearings on adding CBHI similar or same treatment services for commercial coverage, I also listened to and read the testimony from the provider community, as represented by their trade association, the Association for Behavioral Health. The testimony filed on behalf of the providers of *Rosie D.* Remedy services describe these services as a “Successful Massachusetts Model” and “As evidenced over the past 10 years with the implementation of the Children’s Behavioral Health Initiative,

community based services such as In-Home Therapy and Mobile Crisis Intervention delivered through the Wraparound model are incredibly successful...Currently, this robust community based system of care is only available to children and adolescents who rely on public health insurance through MassHealth.” A true and correct copy of the public comments filed by ABH is attached to this affidavit as Exhibit 2.

16. The remedy services provided through MassHealth are crucial elements of the behavioral health continuum for youth with significant behavioral health conditions. EOHHS is and will remain committed to ensuring that the legacy of the *Rosie D.* remedy endures through the continued delivery and ongoing improvement of these important mental health treatment services for youth and families covered by MassHealth.

Signed under the penalties of perjury this 27th day of August, 2018,



Marylou Sudders  
Secretary, Executive Office of Health and Human Services