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**Rosie D. News Stories January 2012**

**Court Monitor to Mediate ICC Access Standard Stalemate**

US District Court Judge Michael Ponsor called upon Court Monitor, Karen Snyder, to mediate an ongoing dispute between the parties about how long youth and families wait for Intensive Care Coordination (ICC) services.

During a hearing on Jan. 27, 2012, MassHealth proposed a 14-day access standard, which means that families must be offered the first face-to-face meeting with an ICC coordinator within 14 days of the date on which the family requests services.  The plaintiffs had requested that the Court order a 7 day standard.   The Monitor will meet with the parties over the next few weeks and report to Judge Ponsor by the next hearing, scheduled for March 1, 2012.

Under MassHealth's current ICC performance specifications and contractual agreements with providers, youth and families should have an appointment with an ICC coordinator within 3 days.  However, over the last two years, the Commonwealth's monthly data has shown that a significant number of youth have waited over 30 days, and some, more than 60 days.  Within the last 15-month period, youth waited an average of 14 days for their first appointment.

In face of pending motions and threatened Court action, the defendants recently enacted multiple strategies that reduced wait times.  Their most recent data indicates that 20 of the state’s 32 Community Service Agencies (CSAs) that provide ICC had no waitlists at all in November 2011.

Nonetheless, the defendants are proposing to establish a standard that grants them up to 14 days – an increase of 467% from the current 3-day specification – for the youth’s first face-to-face appointment.  They propose changing the current performance specifications to require 50% of all families to be enrolled in ICC within 5 days; 75% within 10 calendar days; and 100% within two weeks.

The plaintiffs acknowledge it is sometimes hard for providers to meet the 3 calendar day standard.  But as plaintiffs’ counsel Steven Schwartz pointed out, the vast majority of providers can offer first appointments within 3 business days, or 5 calendar days.  “Twenty of the 32 [CSAs] meet it all the time,” he added.

Based upon CSA data, standards in other states and wraparound programs, and conversations with CSA providers, the plaintiffs agreed to modify the current 3 day standard and proposed, instead, a more flexible, 7 calendar day standard. Further, they propose that the ICC program specifications be changed to require CSAs to offer a face-to-face meeting to 85% of youth and families within 3 to 5 days, and to 100% of youth and families within 7 calendar days.   In addition, they specify that the timeline should begin when the family is referred for ICC services, and ends when the family has its first face-to-face appointment.

**Court Monitor’s Term May Be Extended**

Court Monitor Karen Snyder’s five-year appointment, slated to end in July, may be extended for at least another year. “Personally, I think I would have a rough time overseeing implementation of the remedial order without the assistance of a monitor, and hopefully, this monitor,” US District Court Judge Michael Ponsor told the parties at the Jan. 27th status conference.

The plaintiffs proposed a two-year extension in their Seventeenth Status Report (see story below). The Court ordered the defendants to submit their position on the extension of the Monitor’s oversight role by Feb. 10th.

Judge Ponsor’s Judgment, ordering a new remedial service system with five years of oversight by a Court Monitor, was issued in July of 2007.  In July of 2009, the Commonwealth began the staggered roll-out of the newly designed remedial services.

Judge Ponsor said that the Commonwealth is still in the “early stage” of implementation.  Although he could foresee a time when the Monitor’s services will not be necessary, he made clear that “the assistance of a monitor would be crucial for at least another year.”

**Court To Address Crisis Stabilization on March 1, 2012**

Judge Michael Ponsor wants to discuss implementation of crisis stabilization services, the only *Rosie D.* remedial service that has not been implemented, at the next status conference scheduled for March 1, 2012.

After the Centers for Medicare & Medicaid Services twice rejected the Commonwealth’s attempts to cover the room and board costs of its crisis stabilization under Medicaid, the parties agreed on a plan to expand the existing *Rosie D.* remedial service, Mobile Crisis Intervention (MCI), from a 3-day to a 7-day service, in order to provide the in-home component of crisis stabilization.  In addition, the plan would use the existing Community-Based Acute Treatment (CBAT) program to provide the out-of-home component.  CBATs are short-term, Medicaid-funded residential settings designed to avoid or shorten hospital-stays for youth.

As outlined in the defendants’ Report on Implementation (see story, below), the defendants project to implement the in-home component within the MCI program by May 30, 2012.  But their report does not detail the necessary implementation activities or even mention a target date for the out-of-home component within the CBAT program.  These issues will be a central part of the next status conference.

**Defendants File Semi-Annual Report**

The Commonwealth’s semi-annual [Report on Implementation](http://rosied.org/Resources/Documents/Defs%2014th%20Report.1.13.12.pdf) of the *Rosie D.* Judgment, filed Jan. 13, 2012, describes the defendants’ efforts to meet the court-ordered requirements that include, among other things, screening, outreach, assessments and service utilization.  The 61-page report, which covers the period from May-December 2011, details the defendants’ outreach and education activities targeting families, providers, schools and other state agencies.  Among the new outreach materials is a well-received resource guide for school personnel titled, ‘[Helping Families Access MassHealth Home and Community-Based Behavioral Health Services](http://rosied.org/Resources/Documents/Defs%2014th%20Report.Ex.%206.pdf).’  The report also outlines the defendants’ ongoing efforts to develop specific protocols to ensure that representatives from child-serving agencies participate in ICC care planning teams for youth they serve.  It also discusses various technical assistance and training activities undertaken during the last seven months by MassHealth’s managed care entities as they oversee the new remedial services.

In addition, the report provides updates on enrollment and utilization data (see story, below) and presents the defendants’ position on two programmatic and problematic issues – ICC access and crisis stabilization services (see stories, above).

**Plaintiffs File Seventeenth Status Report**

The plaintiffs’ [Seventeenth Status Report](http://rosied.org/Resources/Documents/Pls%20Seventeenth%20Report.doc), filed Jan. 24, 2012, discusses the status of the Commonwealth’s compliance with the Judgment, and also addresses the ICC access and crisis stabilization issues being considered by the Court.  In addition, the report summarizes the Monitor’s findings in the statewide Community Service Reviews (CSRs), including the recently published [Western Mass. CSR](http://rosied.org/Resources/Documents/2011%20report.Western.final.pdf), and proposes a two-year extension of the Monitor’s appointment, which is scheduled to end in July.

The plaintiffs’ report also identifies the most pressing issues to be addressed in 2012, including full implementation of the long-delayed crisis stabilization services, tentatively slated to start this spring; follow-ups on positive behavioral health screens; adherence to inter-agency protocols to ensure active participation by representatives from schools, the Office of Probation, as well as the Departments of Mental Health and Youth Services in the planning, delivery and coordination of remedial services; expansion of family partners – a service that thus far has only been available to ICC youth; and integration of outpatient treatment with remedial services – a design concept that may be flawed as traditional outpatient therapists have not been effective as coordinators and monitors of services.

Other critical issues for the coming year include implementation of myriad recommendations issued by the Court Monitor in the CSRs; using the CSR as a snapshot of client and system outcomes; and setting compliance standards and clear criteria for satisfying the Court’s Judgment.

**Behavioral Health Screenings Increase But No Follow-up Data**

There was a slight increase in the number of children identified with a potential need for behavioral health services in the first six months of 2011, the most recent data available.  Based on the Commonwealth’s [Behavioral Screening Report](http://rosied.org/Resources/Documents/Defs%2014th%20Report.Ex.%209.pdf), 8% of children screened in April, May and June had positive screenings, up from 7.5% for the period from January through March 2011.

The plaintiffs are concerned about the lack of information about what happens after a child is identified with a potential behavioral health need, and specifically, if she is referred for and provided a mental health assessment, as required by EPSDT, and referred for and provided mental health services.  The defendants acknowledge that their own regulations, as well as contractual agreements with providers, mandate follow-up, but thus far, have not provided any data to respond to these issues.

**CBHI Service Utilization Data Shows Increase**

Recently released [CBHI Service Utilization](http://rosied.org/Resources/Documents/Defs%2014th%20Report.Ex.%2011.pdf) data indicates that 9,056 children and youth received Intensive Care Coordination services at any time during state fiscal year 2011 spanning July 2010 through June 2011.  During that same period, 7,608 children and youth received family support and training services; 942 received in-home behavioral services; 6,284 received therapeutic mentoring services; 12,529 utilized in-home therapy; and 11,104 used mobile crisis intervention services.

As the defendants point out in their Report on Implementation, the 25,685 unique users of any remedial service in state fiscal year 2011 represent a 39% increase from state fiscal year 2010.  They cite a 40% increase in ICC utilization in FY 2011 over FY 2010.

However, the plaintiffs noted in their Status Report that the monthly enrollment data for ICC indicates ICC utilization has virtually plateaued during the past year.  Based on data collected by the CSAs, there was a 9.6% increase in ICC enrollment from July 2010 through November 2011.  Enrollment actually dropped from June 2011 through September 2011.  As for November 2011, the most recent available data, 3,679 children were enrolled in ICC.