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**Rosie D. News Stories                              June 2018**

**Court Directs Defendants to File Motion for Substantial Compliance**

**Plaintiffs to Re-File Motions to Approve Disengagement Criteria and Incorporate Provisions on Outpatient Therapy**

At its June 13th status conference, the Court confronted the long standing and undisputed issue of waiting lists for home-based services, and specifically the lack of timely access to Intensive Care Coordination and In-Home Therapy, two services central to the Court’s Judgment.

After repeated requests for a concrete plan of action from Defendants to ensure timely access to remedial services, the Court concluded that it had no confidence such a plan was in place or would be forthcoming.  At the Court’s urging, Plaintiffs submitted a [**Motion**](http://www.rosied.org/EmailTracker/LinkTracker.ashx?linkAndRecipientCode=bRkpdLa%2fWXfGJLLk5bAh0w4KjWtCux%2fVZIvQ%2bz2gdbWYIW4YqEB0hPUhF5%2fGOVS1woWBlvYLRYw6L2n43%2fOfi2qQVr2OB%2bNHy7Qx8xja8g0%3d) and [**Proposed Order to Improve Access to Remedial Services**](http://www.rosied.org/EmailTracker/LinkTracker.ashx?linkAndRecipientCode=GV8Q1t8h0fgX6rjhHkl4B6gm5fN6EFESXzbp9k3RjSaAjB%2bvQmST%2bKjRTBRo5aXYBBRmG%2f%2bVw8esMAAckqzdTfx8QYU9LwddBtYIQAhNIhg%3d), seeking specific actions designed to reduce waiting lists, and increase provider capacity. Plaintiffs’ [**Memorandum in Support of Proposed Order to Improve Access**](http://www.rosied.org/EmailTracker/LinkTracker.ashx?linkAndRecipientCode=JYsxWNgKjOmprHXqngPnNL6b0CCMifiEXL4WDPtNWVlV2bs4CbjV37zbRigdeSSSpFFoZXexrrFeGhLsyPAvp6%2fKc5O4I6%2fMfaIfCIYBaMo%3d)**,** describes the rationale for these remedial actions.

Defendants argued that no additional actions were necessary to improve timely access to services, since lengthy waiting lists and insufficient provider capacity were driven by workforce issues outside the Commonwealth’s control.  Defendants then renewed past assertions of compliance with the 2007 Judgment, and claimed that the Court had no authority to modify or enforce its Judgment, absent an evidentiary hearing and finding of noncompliance.

In light of these arguments, and in order to resolve disputes about the Court’s authority to order additional actions, Judge Ponsor directed Defendants to file a Motion Regarding Substantial Compliance, describing how they have substantially complied with the Court's remedial order of July 16, 2007. The Court also directed Plaintiffs to refile their Motion to Approve Joint Disengagement Measures and Motion to Modify the Judgment to Incorporate Provisions on Outpatient Therapy. Hearing on these motions is set for September 27, 2018, at which time U.S. District Judge Richard G. Stearns also will be present, since Judge Ponsor is retiring.