****

**Rosie D. News Stories September 2016**

**Disengagement Efforts Underway But Not Under Agreement**

As directed by the Court, the parties conferred over the summer on disengagement measures, and in late September filed reports that underscore their divergent views on the implementation and eventual termination of the Rosie D. Remedial Judgment.  In an effort to define with specificity the standards that would be used to terminate the Court’s active supervision of the case, as well as the ongoing role of the Court Monitor, each party developed specific “outcome measures” for assessing compliance with the Court’s Judgment, based upon an analysis of agreed-to disengagement criteria that had been jointly submitted to the Court in June 2013.

The defendants argue that it is nearly time to end court oversight of the *Rosie D* case – a representation dismissed by the plaintiffs as “misplaced and unsupported by the status of compliance with the Court’s Judgment.”

In their quarterly [**Implementation Report**](http://rosied.org/resources/Pictures/Defs%27%20Implementation%20Report_Sept%2013_2016.pdf), filed September 13, 2016, the defendants contend they have been in substantial compliance with the Remedial Order since 2012.  “[W]hat remains now is ongoing improvement work” that no longer requires any court involvement, they allege.  The defendants request that quarterly status conferences with the Court be held only twice in the coming year and discontinued  altogether the following year; that active monitoring be limited to monthly calls or meetings between the State and the Court Monitor; and that the meetings among the parties occur only once every quarter at most.  Further, they charge that monitoring, reporting and gathering data – all tasks associated with court oversight – hinder their progress. “Every day that defendants devote to reporting and monitoring is a day not invested in work to improve services for children and families.”

The plaintiffs, in their [**Thirty-Second Status Report**](http://rosied.org/resources/Pictures/Plfs%27%2032nd%20Status%20Report.pdf), filed September 20, 2016, dispute the defendants’ claims and cite multiple, outstanding compliance outcomes, evidenced in part by the State’s ongoing problems delivering timely and adequate ICC and IHT services. Another unknown is the effectiveness of the newly designed enhanced outpatient therapy service, which is slated to go into effect October 1. *See related stories, below*.  The plaintiffs anticipate that over time, there will be a gradual reduction in oversight and monitoring, but suggest at this time, the Court should reject “the defendants’ wholesale termination of most monitoring activities without further discussion.”

Instead, the plaintiffs propose a narrowing set of disengagement outcome measures to ensure children and youth are afforded timely access to professionally adequate remedial services in a service system that is both sustainable and durable. *See* [**Plfs’ Status Report, Ex. 2**](http://rosied.org/resources/Pictures/Plfs%27%2032nd%20Status%20Report_EX%202_Outcome%20Measures.pdf)**.**Citing long-standing delays in accessing services, the plaintiffs propose that the defendants must be required to ensure that youth are offered an initial ICC appointment within their own 14-day Medicaid access standard, and that a majority of youth seeking IHT are offered an appointment within the 2-day standard, with none waiting more than 14 days.

Under another disengagement measure proposed by the plaintiffs, the Commonwealth would need to demonstrate that at least two-thirds (66%) of youth are making “good or better” progress and that none is found to have a “worsening” condition, based on the defendants’ own assessment tool, the Massachusetts Practice Review (MPR).

The defendants, who describe the MPR as “a valid and useful tool for assessing important elements of the system’s performance,” reject all of the plaintiffs’ proposed outcome measures, including one, requiring 66% of IHT and ICC practice to be in the “good” or “exemplary” range.  Instead, the defendants argue that they should be held to a much lower standard -- one that does not require consistent adherence to practice standards and contemplates that a significant percentage of youth will continue to receive IHT and ICC service deemed “fair” as opposed to good and exemplary.

The parties expect to meet with Court Monitor Karen Snyder in October to discuss these and other disengagement issues prior to the res-scheduled status conference November 8.

**Plaintiffs, Defendants at Odds About MCI Sustainability Framework**

As part of the disengagement process, US District Court Judge Michael A. Ponsor in June directed the defendants to draft a sustainability framework for Mobile Crisis Intervention (MCI) – a remedial service that both parties concur is being substantially implemented, in accordance with the *Rosie D*. Judgment.  The judge indicated he expects the parties to ultimately create sustainability templates for each of the remedial services “to ensure the effectiveness and efficacy of the program.”

In his instructions at the June 8, 2016, status conference, Judge Ponsor suggested the MCI template should set forth standards that address staffing, wait-times, the collection and use of data on community-based encounters and inpatient admissions and the steps the Commonwealth is taking “to monitor the ongoing effectiveness of the program over time.”

The draft the defendants submitted to the Court in September details MCI data collection responsibilities as well as MBHP’s network management procedures such as convening technical assistance meetings, maintaining provider-specific quality improvement plans and initiating corrective actions as warranted. *See* [**Implementation Report, Ex. 1, MCI Framework**](http://rosied.org/resources/Pictures/Defs%27%20Rpt_091316_EX%201_MCI%20Framework.pdf).  But as the plaintiffs point out in their [**Status Report**](http://rosied.org/resources/Pictures/Plfs%27%2032nd%20Status%20Report.pdf) pgs. 4-7, the framework fails to describe what the defendants will do to address systemic implementation problems when they are detected through existing network management and monitoring.  Moreover, the plaintiffs express concerns that the defendants’ framework does not include service standards, goals to increase MCI encounters in the community, and recommendations from their own expert, Kappy Maddenwald, to ensure children and youth in crisis are being assessed in community settings and not routinely in emergency departments.

**Defendants Object to Proposed Court Order on Outpatient Services**

Despite an agreement to reform outpatient services, the parties are still far apart on a proposed court order setting forth the planning and coordination responsibilities for Outpatient therapists in the remedial service system.  The defendants decided, at the outset of the remedial process, to use Outpatient Therapy to provide care coordination to youth and families who are not receiving Intensive Care Coordination (ICC) or In-Home Therapy (IHT).  The reforms were necessary because there was mounting evidence that Outpatient therapists were not providing needed care coordination or sufficiently utilizing remedial services.  After extensive negotiations, the parties agreed upon a specific set of improvements to Outpatient Therapy services that would require and incentivize therapists to fulfill their care coordination responsibilities.  The remaining dispute is whether and how this agreement should be memorialized before the Court.

The order, drafted by the plaintiffs at the Court’s direction, describes an enhanced version of Outpatient Therapy services, intended to support Outpatient providers’ role as a de facto provider of remedial service coordination in defendants’ implementation of the *Rosie D*. Remedial Plan. *See* [**Pls’ Status Report, Ex. 1**](http://rosied.org/resources/Pictures/Plfs%27%2032nd%20Rpt_EX%201_Outpatient%20Therapy.pdf).  The reformed outpatient therapy joins two existing – and more robust – remedial services, Intensive Care Coordination and In-Home Therapy, as access points for service planning and coordination.

The defendants object to the order, claiming it is not necessary and would hinder their flexibility to operate, monitor and administer the new service. *See* [**Defs’ Supp Report**](http://rosied.org/resources/Pictures/Defs%27%2028th%20Supp.%20Report.pdf).  Despite their objections, the defendants already agreed to create and pay for the service enhancements.  In late spring, just prior to the June 8, 2016, status conference in federal court, the defendants secured MassHealth’s commitment to pay a higher rate of reimbursement to Outpatient therapists who assume service coordination responsibilities for SED youth.  The higher reimbursement rate is scheduled to take effect October 1st.

As designed, Outpatient providers acting as hubswill be responsible for service planning and monitoring, collateral contacts, face-to-face meetings and case consultations with caregivers, remedial service providers, and as warranted, state agency staff.  In turn, they will be reimbursed for all care coordination activities at a rate comparable to individual therapy.

The reformed service is an attempt to address the plaintiffs’ longstanding concerns about the failure of Outpatient therapists to provide adequate service coordination for children with SED and their families.  The plaintiffs have maintained that youth with SED, particularly those who need or receive other remedial services, have multiple providers or state agency-involvement, should receive service coordination through ICC and IHT.

But instead of being referring ICC or IHT, thousands of youth with SED stayed with their Outpatient providers who consistently have failed to ensure they received adequate service planning and coordination.  The defendants acknowledged this limitation:  Asst. Atty. Gen. Hammond told the Court last spring that children served in Outpatient Therapy were not getting “anywhere near the same level of care coordination” as children in ICC or IHT.

**More Troubling Findings from the MPRs; Final Report Due in October**

The second round of reviews of remedial services yielded mediocre findings in the provision of ICC and IHT services, with the mean scores falling in the “fair” range -- meaning that the services do “not consistently meet established standards and best practices.”

The Massachusetts Practice Review (MPR), conducted in March and April of 2016, assessed service delivery for 37 youth, 19 of whom received ICC services and 18 of whom received IHT services.  The overall mean practice scores for youth receiving ICC services was 3.58, slightly higher than those receiving IHT, 3.31.  Similarly, the overall mean youth/family progress score was 3.29 for those in the ICC cohort, compared with 3.17 for the IHT group.

The IHT scores are marginally higher than findings from the first MPR, conducted a year ago.  That review, which focused on 38 youth receiving IHT, had an overall practice score of 3.0, and a youth/family progress mean score of 3.12.

In October 2016, the defendants are scheduled to issue a final report on the MPR, which they describe as “a valid and useful tool for assessing important elements of the system’s performance.”  In their current [**Implementation Report**](http://rosied.org/resources/Pictures/Defs%27%20Implementation%20Report_Sept%2013_2016.pdf), they defend the “fair” ratings on the latest MPR and insist that children and families are benefiting from the remedial services despite lack of adherence to service standards and best practices.