

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
Western Division**

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ROSIE D., et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	C.A. No.
)	01-30199-MAP
DEVAL L. PATRICK, et al.,)	
)	
Defendants)	
)	
)	

**DEFENDANTS’ REPORT ON STATUS
OF CRISIS STABILIZATION IMPLEMENTATION**

The defendant, Executive Office of Health and Human Services (“EOHHS”), at the Court’s direction, hereby provides this update regarding the implementation of the Crisis Stabilization service.

Crisis Stabilization is one of the seven discrete services that the Judgment directs EOHHS to design and implement. See Judgment, ¶ 32(b). As previously reported, the Centers for Medicare and Medicaid Services (“CMS”) did not accept the Defendants’ proposed state plan amendment for Crisis Stabilization services. CMS provided EOHHS with examples of similar services that other states provided pursuant to a state plan, but none of them includes a room-and-board component, which is an integral feature of Crisis Stabilization as it is described in the Judgment. Therefore, the defendants are not optimistic that a state plan amendment for Crisis Stabilization can be crafted that will garner approval from CMS. In accordance with EPSDT requirements (42 USC §

1396d(r)(5)), the defendants are obligated to cover remedy services subject to the availability of Federal Financial Participation (“FFP”) under 42 USC § 1396(a) -- that is, under an approved state plan.

Nevertheless, separate and apart from EPSDT requirements and the terms of the Judgment, EOHHS has determined that it is willing to provide coverage for Crisis Stabilization services to the extent that CMS will approve FFP for Crisis Stabilization as part of the demonstration project renewal to be negotiated between EOHHS and CMS pursuant to 42 U.S.C. § 1315.¹ To that end, EOHHS will include a high level description of Crisis Stabilization in the documents that CMS requested EOHHS to submit on or before June 30, 2010, to describe EOHHS’ programmatic goals for the 1115 Demonstration Project renewal. EOHHS anticipates that the 1115 Demonstration Project renewal will be effective on or about July 1, 2011.

Respectfully submitted,

MARTHA COAKLEY
ATTORNEY GENERAL

/s/ Daniel J. Hammond
Daniel J. Hammond BBO #559475
Assistant Attorney General
Government Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200, Ext. 2078

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¹ Waivers negotiated under 42 U.S.C. § 1315, are commonly referred to as “Section 1115 waivers,” a reference to the pre-codified section of the Social Security Act that authorizes such waivers.

I hereby certify that a true copy of this document was served electronically upon counsel of record through the Court's electronic filing system on today's date.

/s/ Daniel J. Hammond

Daniel J. Hammond
Assistant Attorney General