

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
Western Division

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

LIMITED STATUS REPORT
October 3, 2008

State Plan Amendments (SPAs)

The Commonwealth submitted draft State Plan Amendments to the Centers for Medicare and Medicaid Services (CMS), U.S. Department of Health and Human Services, on March 24, 2008. In accordance with standard procedure, CMS responded within 90 days of the submission with a "Request for Additional Information" or "RAI". In the RAI, CMS asked many detailed questions and requested more detailed descriptions of the services as well as definitive lists of types of provider organizations eligible to provide the services and provider staff qualifications. CMS also asked specific clarifying questions about the similarities or differences between certain services and the relationship between remedy services and other federally-funded services such as foster care and child welfare case management. In addition, CMS asked, for each of the remedy services, for information about rates and rate methodologies. Again, according to the standard schedule, the Commonwealth had 90 days, until September 15th, to respond to the questions.

In order to answer CMS' questions, while maintaining our collaborative process with the Plaintiffs, the parties had to reach agreement on detailed service descriptions and specifications, including the definitions of eligible providers and provider staff. This process entailed weekly negotiations throughout most of the spring and summer, ending on September 18th. (See below for a more detailed description of the process of developing service specifications.)

The Commonwealth prepared a draft response to the RAI which went through two cycles of review and comment by the Plaintiffs and the Monitor's consultants. It was submitted to CMS on September 15, 2008. The response submitted to CMS will need to be amended to add, for each of the remedy services, information CMS requested about rates and rate methodologies. These are under active development and in various stages of completion. We expect to submit amended RAI responses to CMS on or about November 21st.

The Commonwealth has a phone call scheduled in early October with CMS Central and Regional office staff to discuss next steps. According to standard procedure, CMS now has several options: approval or disapproval within 90 days (by December 14); if CMS has additional questions, a request to "stop the clock" while we respond to those questions; a request to withdraw the SPA and resubmit, starting the clock over again. We hope to know more after the October phone call, and remain hopeful that we will have resolution by the end of the year.

Service Definitions and Specifications

Since early spring 2008, the parties have been working on definitions and specifications for each of the seven remedy services. We substantially completed our work on these documents at our most recent meeting on September 18th.

For most of the spring and summer, the parties met for weekly, five to six-hour-long negotiation sessions. These sessions have included expert consultants made available by the

Court Monitor and approved by both parties. The consultants made invaluable contributions, both to the substance of the work as well as to the process of reaching agreement.

Completion of the service definitions and specifications is a significant milestone in implementation of the remedy services. As previously described, the service definitions and specifications were used to answer CMS' questions. Just as importantly, MassHealth's managed care contractors need these documents in order to begin their work to select providers to build the service delivery networks for the remedy services. MassHealth will require the managed care contractors to use the definitions and specifications to develop the Requests for Responses (RFRs) for the Community Service Agencies (CSAs) (providers of Intensive Care Coordination (ICC)) and for the Emergency Services Program (ESP) (which will include the new Mobile Crisis Intervention service for youth). MassHealth will also require the managed care contractors to use the definitions and specifications to define the provider selection criteria for new networks of service providers to deliver Crisis Stabilization, In-Home Therapy, In-Home Behavior Management, Caregiver Peer to Peer Support and Therapeutic Mentoring. Finally, they will use the definitions and specifications to develop network management and quality management approaches for these new services.

Request for Responses for Community Service Agencies

The Massachusetts Behavioral Health Partnership and the other MassHealth managed care contractors will jointly issue a Request for Responses (RFR) for the Community Service Agencies to jointly procure a network of Community Service Agencies.

At the request of the Plaintiffs, MBHP shared the draft RFR with the Plaintiffs and with the Monitor's consultants and MassHealth has received detailed and helpful comments from the

Plaintiffs. MassHealth will draw on these comments as we give MBHP and the managed care contractors feedback on their draft RFR.

We anticipate that the RFR will be released in mid-to-late October.

Provision of Family Stabilization Team Services During the Period That Remedy Services are Being Developed

The Commonwealth has taken the following actions to implement the steps described in its July 30, 2008 Amended Memorandum Relative to the Provision of Family Stabilization Team Services During the Period that Remedy Services Are Being Developed:

1. Suzanne Fields, MSW, LICSW, Director of the MassHealth Behavioral Health Program, has held four meetings with the Behavioral Health Directors of MassHealth's managed care contractors to discuss MassHealth's policies regarding Family Stabilization Team Services, as described in the July 30, 2008 Memorandum, and to discuss how best to improve the availability and responsiveness of the service for children with SED and their families.
2. As a result of these meetings, the five contractors have decided to jointly sponsor quarterly meetings of Family Stabilization Team Services providers. The first of these statewide meetings will be held on October 8, 2008. At this first meeting, the contractors will review current FST Services medical service specifications, medical necessity criteria and authorization and utilization review policies. In addition, they will discuss how to best start preparing to implement the remedy services. MassHealth Behavioral Health Program staff will attend these meetings to participate in discussions and answer questions.
3. Also on October 8th, the managed care contractors will send a joint Provider Alert to the FST providers stating the contractors' FST Services service specifications, medical necessity criteria and authorization and utilization review policies.
4. Each of the managed care contractors is currently developing a stand-alone document describing the FST service, listing their FST providers and describing how MassHealth members can access FST Services. These documents will be disseminated to the managed care contractors' child-serving primary care and behavioral health providers and posted on the contractors' websites by the end of October, 2008.
5. The managed care contractors are currently developing specifications for a special report on authorizations for FST Services and will be reporting back to the MassHealth Behavioral Health Program by late October with the proposed specifications.

Respectfully submitted,

Defendants,

By their attorney,

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Certificate of Service

The undersigned counsel hereby certifies that this document is being filed through the EFC system and thus will be sent electronically to all registered participants.

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