

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

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

DEFENDANT EOHHS’S MOTION TO MODIFY JUDGMENT

The Massachusetts Executive Office of Health and Human Services (the “EOHHS”), defendant in the above-captioned action, hereby moves, pursuant to Fed. R. Civ. P. 60(b) and paragraph 50(a) of the July 16, 2007 Judgment in this matter (the “Judgment”), for a modification of that Judgment. Specifically, EOHHS asks that paragraphs 34 through 39, inclusive, of the Judgment be modified so as to postpone the implementation date for In-Home Behavioral Services (Behavioral Management Therapy and Behavior Management Monitoring), In-Home Therapy Services, Therapeutic Mentoring Services, and Crisis Stabilization, as those terms are defined in the Judgment, from June 30, 2009, until July 1, 2010. Under a modified Judgment, EOHHS would remain obligated to implement fully all remaining services, including all aspects of Intensive Care Coordination Services, by the extant June 30, 2009 deadline.

As grounds for this Motion, EOHHS relies upon its Memorandum of Law, submitted herewith. Briefly stated, and as detailed in the memorandum and supporting affidavits, this request flows from the fiscal crisis of historic proportions currently confronting the Commonwealth as a whole, and MassHealth in particular. While it remains administratively feasible for EOHHS to achieve all of the service implementation deadlines presently set forth in the Judgment (and, indeed, while EOHHS will continue to take all steps to effect such an across-the-board implementation, unless and until this Court modifies such deadlines), it will be doing so at the same time that it is making crippling reductions to other services that come under the umbrella of MassHealth's budget.

As reflected in its affidavits, EOHHS makes this request, in these parlous budgetary times, in an effort to minimize, to the greatest extent possible under the circumstances, the impact of these budget reductions upon the numerous vulnerable constituencies it serves.

Moreover, while this request is wholly driven by the fiscal exigencies besetting MassHealth, EOHHS believes that staggering the implementation of the various in-home services will have the ancillary benefit of permitting the core Intensive Care Coordination Service, Caregiver Peer-to-Peer Support ("Child/Family Support Mentors," as it was referred to in the Judgment), and Mobile Crisis Intervention service,s to be fully implemented, refined and streamlined before the other services come on line a year later. These programmatic benefits are discussed in the Affidavit of Suzanne Field, EOHHS's Director of Behavioral Health (the "Fields Affidavit"), at paragraph 5.

WHEREFORE, EOHHS respectfully requests that this Court enter an Order modifying the Judgment in the manner described above, and/or that the Court enter such other order as it may deem just under the circumstances. EOHHS further requests that the Court resolve this request as expeditiously as possible, for the reasons set forth in detail at paragraph 6 of the Fields Affidavit.

Respectfully submitted,

MARTHA COAKLEY
ATTORNEY GENERAL

/s/ Daniel J. Hammond
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Date: January 16, 2009

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

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Pursuant to Local Rule 7.1(a)(2), I hereby certify that I have consulted with counsel for the plaintiffs about this motion, via a conference call on January 16, 2009, and have attempted in good faith to resolve or narrow the issues raised in this motion. To date, the plaintiffs have reserved all of their rights with respect to this motion, including their right to oppose the motion in whole or in part.

/s/ Daniel J. Hammond
Daniel J. Hammond
Assistant Attorney General

Dated: January 16, 2009