

**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)	
)	
)	

**DEFENDANT’S MEMORANDUM RELATIVE TO THE PROVISION OF
FAMILY STABILIZATION TEAM SERVICES DURING THE PERIOD THAT
REMEDY SERVICES ARE BEING DEVELOPED**

In accordance with the instructions of the Court on July 15, 2008, the Defendants hereby set forth the following principles concerning Family Stabilization Team Services (FST) and the actions Defendants are prepared to take with regard to FST prior to the Court ordered compliance date of June 30, 2009 for implementation of the Remedy Services described in and required by the Judgment in the above referenced matter (Judgment).

Principles for FST as presently contracted

As presently contracted:

1. FST provides flexible support to assist caregivers in stabilizing children and adolescents in their home settings. These supportive services are provided during an episode of acute mental illness or substance abuse or after out-of-home treatment or placement. These services are used to prevent children and adolescents from requiring hospitalization, to preclude

repeated hospitalizations, and to enable children and adolescents to move quickly from the hospital to a less restrictive setting.

2. FST can be provided as long and as intensively as medically necessary to stabilize the child's condition.

3. FST can continue, as medically necessary, including if termination of stabilization services is likely to result in the child becoming de-stabilized.

Actions the Defendants are prepared to take to reinforce the above principles:

In order to reinforce the above principles with its contracted Managed Care Contractors prior to the Court ordered compliance date of June 30, 2009 for implementation of the Remedy Services described in and required by the Judgment, the Defendants agree that they will:

- 1) Meet with the Behavioral Health Directors of its Managed Care Contractors to reinforce the definition of medical necessity incorporated into each Managed Care Contractor's MassHealth Contract, including that there is no arbitrary cap on the intensity or duration of FST for any particular child.
- 2) Subject to successful negotiations, as necessary:
 - a) Require each of its Managed Care Contractors to issue a Provider Alert to their FST providers stating the Managed Care Contractor's service specifications, medical necessity criteria, authorization and utilization review policies and procedures
 - b) Require its Managed Care Contractors to convene a meeting or meetings of FST providers to (1) review the topics addressed in the Provider Alert described in paragraph 2.a. and to (2) engage in a discussion of how to best start preparing to implement the Remedy Services.
 - c) Require each Managed Care Contractor to create a stand alone document listing the FST providers in its provider network, a description of the FST service, how MassHealth Members can access the FST service, and to disseminate this document electronically to their child-serving Behavioral Health and Primary Care Providers and post the information on their websites, in forms and locations appropriate for providers and Members.

- d) Explore with its Managed Care Contractors the possibility of developing the specifications for a new FST Service Authorization Report. If MassHealth determines that the Managed Care Contractors can reasonably implement such a report by December 30, 2008, MassHealth will direct the Contractors to produce such a report and Defendants will provide it to the Court Monitor in the first quarter of 2009.
- 3) Seek the advice and suggestions of the Managed Care Contractors as to steps that could be taken, within the current service design, to improve the availability and responsiveness of the service for children with SED and their families.
- 4) Solicit and discuss “lessons learned” from these efforts in the Managed Care Contractors’ Behavioral Health Directors Meeting, chaired by MassHealth and MassHealth’s Behavioral Health Advisory Committee, comprised of Trade Associations, Family Organizations and other stakeholders.
- 5) Provide oral reports to the Monitor as to our progress with performing each of the activities described above.

Defendants specifically cannot and do not warrant or represent that the actions it will take will result in any specific change or increase in utilization of FST, change in utilization management processes of Managed Care Contractors or that any particular benchmark for duration or intensity of FST is an appropriate measure of improved utilization, but rather that such actions will be taken in order to reinforce with its Managed Care Contractors the principles outlined above, and to encourage utilization for FST as medically necessary for children in need of such services.

Notwithstanding Defendants’ willingness to take these actions, Defendants maintain that the Judgment specifically does not require the development and implementation of interim services in general, or any actions be taken with respect to FST in particular. Accordingly, since

this topic falls outside the scope of the Judgment, Defendants take these actions voluntarily and nothing herein shall constitute a waiver of Defendants' objections to the applicability of the dispute resolution process described in paragraph 51 of the Judgment or to entry of an Order by the Court regarding interim services.

Respectfully submitted,

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ATTORNEY GENERAL

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Date: July 25, 2008

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