UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROSIE D., et al.,	)	
on behalf of themselves and all others similarly situated,	)	
Plaintiffs	)	
v.	)	**Civil Action No. 01-CV-30199-MAP**
DEVAL PATRICK, et al.,	)	
Defendants	)	

INTERIM REPORT ON IMPLEMENTATION

The Defendants hereby submit this Interim Report on Implementation ("Report") as requested by the Court at the February 12, 2009 hearing in preparation for the hearing scheduled for March 27, 2009.

The Defendants hereby report as follows:

PROJECT 1: BEHAVIORAL HEALTH SCREENING

Effective December 31, 2007, MassHealth began requiring its contracted Managed Care Organizations (MCOs) and primary care providers under contract to MassHealth to offer to screen MassHealth-enrolled children and youth under the age of 21 with one of eight MassHealth-approved standardized behavioral health screening instruments during preventive care Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and Preventive Pediatric Healthcare Screening and Diagnosis (PPHSD) visits.

To foster compliance with the mandate, MassHealth's contracted Managed Care Entities

(MCEs) held training sessions around the state and MassHealth has expanded the Massachusetts Community Psychiatric Access Project (MCPAP) to provide clinical and practice management support to primary care clinicians as they implement this screening requirement. MCPAP is staffed by Screening Tool Consultants (STCs), well-respected experts in pediatric screening, who are available to clinicians by phone and in person. These experts also function as consultants to MassHealth as it monitors screening implementation.

A. Behavioral Health Screening Numbers

MassHealth claims and MCE encounter data from October through December, 2008 show that the following percentages of well-child visits included a behavioral health screen:

- 21.73% for children under the age of 6 months
- 52.68% for children ages 6 months through 2 years old
- 58.70% for children ages 3 through 6 years old
- 60.79% for children ages 7 through 12 years old
- 53.90% for youth ages 13 through 17 years old
- 23.88% for youth ages 18 through 20 years old

During this period, the percentage of the reported screens that identified a possible behavioral health condition are:

- 1.75% for children under the age of 6 months
- 6.26% for children ages 6 months through 2 years old
- 12.22% for children ages 3 through 6 years old
- 13.04% for children ages 7 through 12 years old
- 12.44% for youth ages 13 through 17 years old

- 11.76% for youth ages 18 through 20 years old

The MCPAP consultants are pleased with the rates of screening as reflected in the data.[1]

B. Behavioral Health Screening Quality Initiatives

MassHealth continues to pursue quality improvement initiatives to increase member and provider awareness of, and provider compliance with, the screening requirement.

MassHealth continues to publish articles in various MassHealth member and provider newsletters and to require MCEs to publish articles in member and provider newsletters that provide information about the behavioral health screening requirement and explain the need for such screens at well child visits.

MassHealth and the MCEs routinely track screening rates and related data to identify potential areas for quality improvement. MassHealth has developed processes to share screening

---

[1] To provide some context to these numbers, it may be helpful to review the published results of two screening projects in Massachusetts, one at Children's Hospital Boston and the other conducted by Cambridge Health Alliance.

In the Children's Hospital Boston project, Dr. Alison Schonwald, a pediatrician at Children's Hospital Boston and one of the MCPAP screening consultants, implemented routine screens at 2 sites with 34 full and part time clinicians using one screening instrument to screen children from 6 months to age 8. After 12 months of implementation, clinicians screened these children 61.6% of the time. Of the children who were screened, 11% were identified with a "developmental concern".

In the Cambridge Health Alliance project, Dr. Karen Hacker, an adolescent medicine specialist and another MCPAP screening consultant, implemented routine screening in 7 practices using one instrument to screen children between 4 years, 11 months and 19 years. After five years, this project has reached a relatively steady screening rate of 75%. Of the children screened at these sites, 6% have been identified as possibly having a behavioral health condition.

It is worth noting that study participants considered it easier to complete screening for older children because time during visits for younger children tends to be devoted to minor illnesses, vaccinations and guidance to parents, often leaving little time for screening. Also, neither of these two screening projects screened children younger than six months of age. That is because, at this time, there is no consensus among screening experts about the efficacy of available screening tools for use with this population. Although one of the MassHealth-approved instruments, the Parents Evaluation of Developmental Status (PEDS), may be used with children under six months, most clinicians do not believe that it is very useful for this age group. Dr. Schonwald used the PEDS in her screening initiative at Children's Hospital, but not for children under six months. New screening instruments are under development for infants that may be available in a year or two. MassHealth will consider adding any such tools to the list of approved tools after they become available.

rates with providers and requires MCEs to do the same. These "report cards" update providers on their screening rates and offer resources and suggestions for improvement. The data has also been used by MCE customer service teams and by the MCPAP Screening Tool Consultants (STCs) to target outreach efforts to those providers whose claims data indicates lower screening rates. Some MCEs have surveyed providers to identify possible barriers to screening as well as best practices. The information gained from these surveys will be used to develop an informational mailing.

Finally, MassHealth and the MCEs will be conducting another set of provider forums this year on behavioral health screening in the primary care office. These forums will introduce newly-developed screening toolkits created by the Screening Tool Consultants. The toolkits provide an overview of the four most frequently used MassHealth-approved screening tools and offer helpful strategies for implementing behavioral health screening in the primary care office. Once introduced at the provider forums, the toolkits will be made available online.

One issue that some providers have raised is their frustration that not all private insurers pay for behavioral health screening. MassHealth and the MCEs continue to work with these providers to ensure that they understand their contractual obligation to screen children and youth on MassHealth, whether or not private insurers pay them to provide the screens to other patients.

PROJECT 1: INFORMING AND NOTICING IMPROVEMENTS

The Defendants have been using a wide variety of strategies to inform members, providers and the public about the steps they are taking to implement the remedy in this case. The list below includes many of the activities that will be occurring this spring, and throughout 2009:

- **Member notice.** A notice will be mailed in late spring to all households with a member under the age of 21 to explain the CANS requirements, the CANS application, and the new services that will be implemented by December 1, 2009.
- **CBHI family brochure**. A new brochure will be developed and will begin being distributed in late spring through multiple distribution channels to provide families with information about CBHI implementation efforts, including an emphasis on the new services.
- **Customer service training**. The Defendants will continue the process of educating the MassHealth customer service team to ensure they are prepared to answer questions about the CANS application and the new services. MassHealth will require the MCEs to do the same for their teams.
- **Member handbooks**. PCC Plan, MBHP and MCO member handbooks will be updated to provide information about the new services.
- **MassHealth and MCE member publications**. MassHealth will publish articles in the Health Highlights publication to provide information about CBHI implementation efforts, including an emphasis on the new services. MassHealth will require the MCEs to do the same in their member publications.
- **Meetings with family support groups**. The Defendants will continue to meet with these groups on an ongoing basis to provide information about CBHI implementation efforts, including an emphasis on the new services.
- **Contact with family organizations**. The Defendants will continue to provide email updates and other resources to these organizations to provide information about CBHI implementation efforts, including an emphasis on the new services.
- **MassHealth and MCE provider publications**. MassHealth will publish articles in the PCC Plan Quarterly publication to provide information about CBHI implementation efforts, including an emphasis on the new services. MassHealth will require the MCEs to do the same in their provider publications.
- **Fact Sheets**. MassHealth will update these publications to provide information about CBHI implementation efforts, including an emphasis on the new services.
- **CBHI provider brochure**. A new brochure will be developed and will begin being distributed in late Spring through multiple distribution channels to provide providers with information about CBHI implementation efforts, including an emphasis on the new services.
- **CBHI provider emails**. MassHealth will continue to communicate with providers on an ongoing basis through emails about implementation efforts, including an emphasis on the new services.
- **MCE network management activities**. MassHealth will require the MCEs to inform their provider networks about remedy services through network management activities.
- **CBHI Pre-K through Grade 12 Advisory Workgroup.** This group has been jointly established by the Executive Office of Education and the Executive Office of Health and Human Services. It consists of 15 dynamic leaders in education who represent various education constituencies and who are committed to promoting collaboration between

education and human services. The Defendants will be working with this group to develop and implement an effective communication strategy to reach the many school staff who play a critical role in helping students access needed clinical and support services.

PROJECT 2: CHILD AND ADOLESCENT NEEDS AND STRENGTHS (CANS) DEVELOPMENT, TRAINING AND DEPLOYMENT

A. CANS Training and Certification Numbers

As of March 12, 2009, 7,346 clinicians have received CANS certification training, and 6,866 have become certified. Demand for training has dropped off sharply in 2009, suggesting that the task of training and certifying the existing workforce is essentially complete. We anticipate some increase in training demand each spring and summer as new clinicians graduate and enter the workforce. We also expect modest demand for training of bachelor's-level clinicians hired as Care Coordinators by Community Service Agencies from spring 2009 onward. MassHealth will continue to provide both web-based training and face-to-face training through University of Massachusetts Medical School (UMMS). UMMS will also provide ongoing CANS user support focused on how providers can use the CANS more effectively in clinical practice and how to effect program improvement.

B. Activities to Support the CANS Implementation

A variety of supports has been created for CANS users about the CANS tool and the web-based CANS application that EOHHS has built and made available on the Virtual Gateway (VG) to capture CANS information. These include:

- **Frequently Asked Questions** about the CANS have been posted on the Children's Behavioral Health Initiative (CBHI) website and are updated periodically based on updated information available about the CANS implementation and on questions posed by the public.
- **Written instructions (or "job aids")** for users of the web-based CANS application have been posted on the CBHI website.

- **Interactive instructional videos ("Flash files")** for users of the web-based CANS application have been posted on the CBHI website.

- **Phone and email response to user questions.** VG staff respond to questions about provider enrollment in the VG, user names and access issues (around 80 to 90 calls per week). CBHI staff respond to questions about the CANS requirements and clinical use of the CANS. Some questions are referred to other resources, such as the UMMS CANS Training Team, or MassHealth's MCEs.

- **CANS conference calls for providers**. CBHI staff have hosted seven one-hour calls with between 50 and 90 participants per call. Calls include a half-hour presentation of CANS information by staff from CBHI, the VG, the CANS training team, the IT staff developing the CANS application or the MassHealth Behavioral Health program and then time for questions and answers.

- **Face to face contacts.** CBHI staff members have presented on the CANS to stakeholder groups, including family groups and providers. Recent examples include meetings with Partners Health Systems' Psychiatry staff, with PAL family support specialists, and with staff at the South Boston Behavioral Health Center.

- **Web surveys.** The UMMS CANS Training Team has conducted a web survey of CANS Certified Assessors to learn more about CANS use and any obstacles encountered by users and will continue gathering data from CANS users through periodic web surveys.

- **User groups.** The Defendants are developing plans to support specific user groups, such as clinical supervisors who will explore ways to use the CANS during supervision of other clinicians and clinic directors who will explore ways to use the CANS in quality improvement efforts.

C. CANS Use Numbers

CANS use data are collected from two sources: (1) MassHealth claims data and encounter data the MCEs provide to MassHealth in which a billing modifier indicates that a CANS was completed (for outpatient services only); and (2) data entered directly into the web-based CANS application (for all services that require use of the CANS).

Since the CANS application will not allow clinicians to enter the full CANS until late April, what we have available now are MassHealth claims data and encounter data the MCEs provide to MassHealth. These data only report on assessments performed as a part of outpatient

behavioral health services because it is only in outpatient services that assessments are billed as a distinct service. In other BH services, such as Family Stabilization Teams or Inpatient Psychiatric Hospitalization, payment for CANS assessments is built into a "bundled" rate and therefore can't be tracked separately. The majority of BH services provided are outpatient BH services. As a result, claims and encounter data provide information about CANS utilization for the majority of BH service utilizers. In State Fiscal Year (SFY) 2008, there were 67,588 MassHealth members under the age of 21 who received behavioral health services of any type (excluding psychopharmacological treatment alone). 63,878 (94.4%) of these children and youth received outpatient therapy alone or in addition to other BH services. Thus, data on CANS assessments performed in connection with outpatient services represents approximately 95% of the CANS assessments that have been completed.

The MassHealth claims data and encounter data MCEs provide to MassHealth for the month of December, 2008, the first month following implementation of the CANS requirement on November 30, 2008, show that 42% of all claims or encounters for a BH clinical assessment for children and youth included a billing modifier indicating that the CANS was used in the assessment. In other words, 3,790 claims or encounters were recorded for a BH assessment performed in December on a MassHealth-enrolled child or youth and of these, 1,610 included the billing modifier signifying the use of the CANS.

D. CANS IT Application

The web-based CANS application became available to providers on December 20, 2008, for entry of a limited dataset. Since that time, provider use of the application has steadily increased. Records were entered by 55 provider organizations, including many of the state's

larger providers, suggesting that larger entities are complying with the requirements regarding CANS and the CANS application. We suspect that smaller entities, such as clinicians in private group or individual practice, will take a longer time to comply.

The second release of the application is scheduled and currently on track for April 23, 2009. This release will permit entry of the full CANS tool (with consent from the member or an individual authorized to consent on the member's behalf) in addition to the demographic information and SED determination collected in the first release.

The two-stage release of the CBHI application benefited providers, giving them an opportunity to become familiar with the CANS application under simplified conditions. This has improved long term implementation as a result. For example, EOHHS has used this time as an opportunity to provide extensive user support. As of March 9, 2009, the VG team assigned user names to 3860 individuals; of which 141 are sole practitioners and the rest are affiliated with 154 provider organizations such as mental health clinics.

PROJECT 3: DEVELOPMENT OF A SERVICE DELIVERY NETWORK

A. Negotiations with the Centers for Medicare and Medicaid Services

MassHealth submitted two proposed amendments to the Massachusetts Medicaid State Plan: one for ICC, as a "Targeted Case Management" service; and one for the remaining remedy services as "EPSDT Services." MassHealth received CMS approval for the ICC State Plan Amendment (SPA) on December 2, 2008, with an effective date of June 30, 2009. Approval for the EPSDT Services State Plan Amendment (SPA) is still pending. At CMS' request, on October 21, 2008, MassHealth withdrew its written responses to requests for additional information (RAI) posed by CMS in order to "stop the clock" and allow time for additional discussion to avoid a potential denial. MassHealth and CMS have since had a number of productive phone

calls and informal exchanges of draft state plan language. MassHealth will be formally resubmitting its RAI to CMS by the end of March, in order to ensure that CMS makes decisions by June 30, 2009 (or thereafter depending on implementation timeframes as modified by the Court on February 25, 2009). MassHealth is cautiously optimistic about receiving approval for all six remedy services in the pending SPA.

B. Services for Children Who Are Not Currently Enrolled in Managed Care

At any given time, approximately 60,000 children are not enrolled in managed care, most commonly because they have both MassHealth and commercial insurance or Medicare. MassHealth intends to propose changes to its regulations to change this rule. Thereafter, MassHealth expects to enroll children who are currently excluded from managed care into the Massachusetts Behavioral Health Partnership (MBHP) for their behavioral health services. MBHP will coordinate MassHealth behavioral health benefits with Medicare or the commercial insurer. Members will continue to receive all other MassHealth services as they do now.

C. ICC Providers: the Community Service Agencies

On March 6, 2009, the MCEs announced the Community Service Agency awardees. The MCEs selected 29 geographically-based CSAs and 3 specialized CSAs to meet the needs of specific cultural and/or linguistic groups in the Commonwealth. A number of CSA "readiness" activities are now underway to prepare the CSAs for delivering services starting June 30, 2009, including:

- The MCE's are negotiating final contracts with the selected CSAs, which will be executed by mid-April;
- Monthly statewide implementation meetings with the selected CSAs and the MCEs have been scheduled to begin in April;

- CSAs are preparing work plans that MBHP will oversee to ensure that CSAs' readiness preparations will be sufficient;

- MassHealth is preparing a CSA Operations Manual that it will require each MCE to use to ensure uniform delivery of CSA services;

- MassHealth staff will be meeting onsite with each of the MCEs every other week to ensure that the MCEs are readying their authorization and claims systems and personnel for the CSA services and Mobile Crisis Intervention;

- A listing of the cities and towns covered by each CSA is being compiled to assist families and other stakeholders make referrals to the CSAs;

- A two-day "Wraparound 101" training is being planned for the end of April for CSA Program Directors and executive staff to educate them about the principles underlying the wraparound care planning process; and

- Selected CSAs have been invited to participate in a "job fair" in April at Northeastern University to assist them in hiring care coordinators and family partners.

D. Training for ICC Providers

MassHealth posted a Request for Proposals (RFP) for Training, Coaching and Ongoing Learning Support for Intensive Care Coordination and Caregiver Peer-to-Peer Support Services for the Children's Behavioral Health Initiative on March 10, 2009. Responses are due by April 8, 2009, and EOHHS anticipates a contract start date in early May, 2009. The selected training vendor will offer training, coaching, and subsequent mentoring and peer learning opportunities for individuals employed by CSAs (Care Coordinators, Family Partners, and program supervisors and managers).

E. Mobile Crisis Response

MBHP posted a Request for Responses for the Emergency Service Program (ESP) on its website on December 19, 2008. This procurement will include Mobile Crisis Response services for children and youth (under 21) and Crisis Stabilization services for transition age youth (18-21). Responses were due to MBHP on March 3, 2009. MBHP is currently reviewing submitted

responses and plans to announce the selected providers on April 3, 2009.

F. Network Development for Other Services: Application for Network Affiliation

The current MCEs posted a common Application for Network Affiliation (ANA) on each of their websites on January 30, 2009. These MCEs have informed us that they will use the completed ANAs to identify and select network providers for Crisis Stabilization (for youth 17 and under), Therapeutic Mentoring, In-Home Behavioral Services, and In-Home Therapy services. We expect that the MCEs will be meeting to select a common network of providers at the end of April.

G. Medical Necessity Criteria (MNC) Development

MassHealth has established medical necessity criteria (MNC) for ICC. Drafts of the MNC for Therapeutic Mentoring and In-Home Behavioral Therapy will be sent to the Plaintiffs shortly. A draft plan to test inter-rater reliability of MCE staff charged with reviewing provider determinations of medical need has been prepared and is under review by MassHealth.

H. Quality and Utilization Management (UM) Plans

MassHealth has been meeting weekly with the Behavioral Health Directors from the MCEs to develop utilization management practices. The Defendants shared an overview of the planned quality and utilization management plans with the Plaintiffs on March 11, 2009. The parties scheduled an additional meeting for further discussion in April.

I. State Agency Protocols

In accordance with paragraphs 12 and 30 of the Final Judgment, the Defendants are in the process of developing written protocols with each of the child-serving EOHHS agencies. We have shared a first draft of the Department of Youth Services (DYS) protocols with the Plaintiffs

and will be sharing additional protocols for other agencies as they are developed.

PROJECT 4: INFORMATION TECHNOLOGY SYSTEM DESIGN AND DEVELOPMENT

System design work is complete for this project. By the time the first remedy services are being delivered, the Defendants will have the capacity described in the Order to identify and monitor behavioral health service delivery to children with SED.

The Defendants' assessment of what kind of system is needed to collect the required data elements evolved through the design process. The Defendants have concluded that only one new data collection system was required: a system to collect clinical assessment data. (the "CANS IT system" discussed above). Other required data elements can either be obtained through MassHealth's claims system or through the MCEs.

OTHER INITIATIVES

A. Interim Services: Family Stabilization Team (FST) Services

MCE representatives continue to meet quarterly with FST Directors and other personnel to ensure compliance with the interim agreement entered by the Court on July 31, 2008. The Defendants have reported utilization data on FST services to the Court Monitor.

B. Service Access for Children in MassHealth's "Expansion Populations"

The Defendants have determined that children in "Expansion Populations" who have SED would generally meet the standard for disability required for establishing eligibility for MassHealth CommonHealth. We have been reviewing how best to streamline the CommonHealth eligibility determination process, including, but not limited to, providing clearer guidance to providers and members and their families about how to apply for MassHealth CommonHealth and working closely with the Commonwealth's Disability Determination Unit to

help streamline the application procedure. After months of work, the Defendants concluded that creating a separate process for children with SED would create complexity and confusion that would likely to hinder rather than facilitate the DDU process and access to the new services and furthermore would require additional state resources not currently available. Instead, the Defendants have created a work group to identify possible ways to improve the existing process for all children with disabilities. These might include improving the MassHealth application and accompanying materials to prompt MassHealth applicants with behavioral health needs to apply for CommonHealth and describing how to document behavioral health disabilities to support the DDU process. We will be sharing our plans with the Plaintiffs as they develop.

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

Date: March 23, 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