Fifth Monitoring Report
US Department of Justice v. Erie County New York

This report reviews the status of medical program conditions at the time of the Fifth Monitoring visit, which took place from November 18 through November 22, 2013.

B. Medical Care

1. Policies and Procedures

Compliance Status: Substantial compliance drafting of policies; substantial compliance implementation of policies.

Findings

Although the implementation of some policies requires improvement, in general the implementation is far enough along such that it is important to recognize these advances. With the departure of the Medical Director who has been with the program since the beginning of this litigation, we are concerned that the progress thus far achieved be sustained. There is a very strong leadership team remaining in the medical program, including the Director of Health Services as well as the Director of Nursing Services. What they are unable to provide, however, is the clinical oversight of the remaining clinicians. We are aware that the County has contracted with a vendor to be able to present candidates to be hired for the Medical Director position. We hope that this is accomplished expeditiously.

The main areas for improvement in implementation will be detailed later in this report. However, they include the chronic care program and the scheduled offsite service program predominantly.

Recommendation

1. Continue to provide feedback to the clinicians with respect to their performance in both the chronic disease area and the scheduled offsite service area.

2. Medical Autonomy

Compliance Status: Substantial compliance.

Findings

This area remains in substantial compliance, because for the period reviewed we were well aware that custody and health care leadership worked well together. This does not mean that there were not differences, but it does mean that the differences were resolved in a professional and timely manner. Again, we are concerned that the new Medical Director will have to establish a working relationship with custody leadership. This of course will take time. We have been

impressed with the professionalism of the custody leadership and expect that this will be accomplished in a reasonable period of time.

Recommendation: None.

3. Privacy

Compliance Status: Substantial compliance.

Findings

The new space for the intake process is now fully utilized. It is well designed for both privacy and efficiency of processing. We reviewed the additional exam room to be created at the Erie County Correctional Facility and although it is not yet furnished and does not yet have privacy curtains, we appreciate the potential and the plans to create a professional setting which affords patient privacy. We did not, on this visit, review the exam rooms in the holding center; however, we do expect to visit them in our next visit and hope we will observe appropriate professional sanitation procedures.

Recommendation

1. Insure privacy is afforded patients when the new exam room is utilized within the Erie County Correctional Facility.

4. Training of Custody Staff

This area has been in compliance for 18 months.

5. Management of Health Records

Compliance Status: Partial Compliance.

Findings

There continues to be improvement in this area in several ways. First of all, the backlog for filing for the active records was within the target timeline of no more than 48 hours. In general, when we reviewed records, we found that not only were the necessary documents available but also they were generally filed in the appropriate sequence and in the appropriate section. On the other hand, we did find that the inactive files were not up to date. In fact, documents in the "to be filed" area went back almost to the beginning of October. We were informed that a new position will be filled and the person's duties will include filing documents in the inactive records. We would expect that when we return in May this problem of a filing backlog for documents to be filed in inactive records will have been resolved. Finally, we must commend the County for its creation of a large, professionally designed storage area for the inactive records. There is a modern set of rolling files which enable the clerical staff accessing records to access the space between the numbers to be selected from the shelving in an efficient manner. Ultimately, the

plans for an electronic record will greatly facilitate the accessibility of both active and inactive records. We understand that the RFP process has progressed to such an extent that there are now two companies which are finalists for providing the electronic record software. We also understand that there will be site visits to each of these potential vendors within the next month and then a selection shortly thereafter. We remain ready to assist in the implementation in any way possible.

The medical staff continue to utilize the O for outcomes, F for follow-up, I for infection control issues, R for registrations and M for medical management methodology. This approach is designed to facilitate continuity of care. We would also note that a progress note form has been designed that can also serve as a chronic care follow-up form. We have never seen this done in any other facility and hope it works out well. We have reviewed the chronic disease initial visit form and in reviewing records can report that although the forms are utilized, our review of the professional performance demonstrated that there remain opportunities for improvement.

Recommendations

1. Fill the clerical position, which should facilitate eliminating the backlog in filing documents for inactive records.
2. Sustain the progress with regard to selecting, contracting, training of staff and implementing an electronic record.
3. Continue to make available for medical and mental health chronic care visits a copy of the active medication administration record and any monitoring (blood pressure, fingerstick) data.

6. Medication Administration

Compliance Status: Substantial compliance.

Findings

In both the morning and evening medication administration that we observed, we attended medications passed in both linear units and in podular units. We continued to find that the nurses consistently performed both professionally and efficiently. Their interaction with the inmates was also appropriate. They continued to utilize a process with the loose-leaf binders such that at the beginning of the medication administration process, the medical administration records were on the left side of the binder and as the meds were administered they were moved to the center of the binder, and this enabled the nurses to determine whether all the patients who should have presented themselves for the medication administration were in fact presenting themselves. We did identify two concerns. One was with regard to the consistency of the nurse referring patients to the ordering clinician when patients refused three days in a row. We found a few cases where we could not, in reviewing the records, identify a progress note through which counseling by the clinician was documented. Additionally, we identified a concern with regard to the manner in

which nurses were documenting patient refusals. Most of the nurses documented refusals by initialing the appropriate space and circling their initials. One nurse wrote in, "REF." It is our understanding that the latter nurse is incorrect and not performing in a manner consistent with nursing requirements. There was also some confusion with regard to whether a nurse is required to record a refusal when patients ask not to receive an as needed medication. This area also needs to be clarified.

Finally, we also checked at the window outside where patients receive their property and found that the appropriate form was available. This form provides a phone number to a pharmacy, which would enable the patients to access a prescription in the community. This form also contains information regarding detoxification treatment as well as medical record requests and tuberculosis testing.

Recommendations

1. The nursing QI program should continue to monitor the performance of nurses during the medication process, specifically looking at patients who refuse their medications three days in a row and whether or not a referral and counseling has taken place as documented in the medical record.
2. Nursing should clarify the correct manner of documenting refusals on the medication administration records.
3. Nursing program should clarify what is the appropriate method of documenting an as needed medicine not being needed as described by the patient.
4. The method of MAR selection for these reviews should include patients on multiple medications, and when selecting records to identify refusals, it is most useful to select medication administration records of patients on psychotropic medications.

7. Access to Care

Compliance Status: Partial compliance.

Findings

We were chagrined to find that a system used to insure that every sick call box is opened daily had been abandoned at the holding center. Our understanding is that the person who performed that task left the program but no one else continued to do it. This is not a personal duty; it is a process duty in order to insure that every location has daily access to sick call. I was informed that there will be a replacement procedure implemented shortly. It is our view that if staff understood why this was being done it would not have been discontinued unless an alternative procedure that accomplished the same result was implemented in its place. We also learned that patients' slips that address so called administrative issues as opposed to symptom requests are all handled together. It is our view that since the policy requires a face-to-face assessment with regard to symptom requests exclusively, it would be valuable to separate these two types of

requests in order to determine that the timeliness targets for symptoms assessments by nurses are in fact being achieved. The data to be monitored is the percent of symptom kites that are seen by a nurse for a face-to-face assessment in an appropriate space within 48 hours of having received the symptom request. The goal is at least 80% of those requests are seen within 48 hours. For those that are not seen within 48 hours, the QI program should study the causes for the delay. The goal is to improve potentially to 90% seen within two days. The other goal is to make sure that those not seen within 48 hours are seen within one day after 48 hours. This is the challenge. In addition, we reviewed nursing professional performance at both sites and there continue to be opportunities for improvement. This is common in most facilities. We know that the more review and feedback directly with the nurses occurs, the more the performance improves.

Recommendations

1. Separate the symptom kites from the administrative kites and monitor the timeliness of face-to-face assessment from the time of receipt of the symptom kites.
2. For those symptom kites not seen within 48 hours, determine the contributing factors in order to target improvement strategies that could mitigate these factors.
3. If possible, designate a nurse as a nurse educator and have her review the performance of nurses, both during sick call and urgent care, and provide feedback to the nurses in a constructive manner. This should be done at both facilities. All these recommendations are directed to the quality improvement program.

8. Emergency Care

Compliance Status: Substantial compliance.

Findings

We reviewed a series of records at both institutions in order to determine whether the immediate response was appropriate, whether the assessment and disposition were appropriate and whether, where continuity of care was required, that was appropriate. In fact, we found that consistently at both facilities, the assessment was appropriate; where indicated, patients were sent out timely and when patients returned, the necessary paperwork was available; and patients were seen by their primary care clinician, usually within the next day. The clinician adequately addressed the reason for the send out and facilitated follow-up care where indicated. This is the basis for the move to substantial compliance. Our only concern was that there was not always assiduousness demonstrated to us when we reviewed the urgent care log. In discussing the urgent care system, we also learned that there was not yet a way for the medical program to insure that when a call was made to the medical area by custody staff, a consistent nurse was responding over the phone. We were informed that, especially at the holding center, nurses sometimes get pulled away from the phone that custody accesses. Our suggestion is a wireless system that enables a nurse to move about but retain the phone number provided to custody. That person should always also

maintain the log so that she can document the name of the patient and presenting complaint right after the call has been made.

Recommendations

1. Instruct the nursing staff on the importance of assiduously maintaining the urgent care log, which must include patient identifiers, date and time of call, presenting complaint and disposition.
2. Develop a system that insures that on each shift custody needs to access only a single number and will always reach the appropriate nurse who will also have the responsibility of maintaining the urgent care log.
3. The QI program should once a quarter monitor both the process aspects of urgent care services as well as the professional performance aspects, which includes both nursing and clinician performance.

9. Follow-Up Care

Compliance Status: Partial compliance.

Findings

We continue, for this item, to refer to follow-up care after scheduled offsite services. This includes both specialty consults as well as procedures. Our reviews at both facilities demonstrated that specialty services were consistently accessible timely. For routine services, this means within 30 days. However, especially at the correctional facility, we found a tendency for nursing to refer to the advanced level clinicians for a record review of patients who had returned to the facility. At the ECCF holding center, in none of the cases we reviewed did this result in a face-to-face encounter when this happened. Less frequently at the holding center this also occurred. When a clinician reviews a record post-encounter the record review may edify the clinician; it is generally of minimal benefit to the patient. The patient gets to understand what was found and what the plan is only when the clinician meets with the patient and discusses these items. This needs to happen consistently without exception. In general, we did find that patients at the correctional facility as well as at the holding center did return through a nurse. It was only the clinician follow-up that was problematic. Thus, there has been some progress.

Recommendations

1. For consultations and procedures, the exceptions being physical therapy or some other ongoing treatment, follow up by a clinician with a face-to-face encounter must be documented.
2. That encounter must indicate that the findings and the plan were discussed with the patient. This process should be reviewed by the QI program at least twice before our next visit.

10. Chronic Disease

Compliance Status: Partial compliance.

Findings

There has been some progress since our last review. There is now an initial chronic disease encounter form which was implemented within the last few months. Although the use of this form is a step forward, we have identified some performance issues with regard to the utilization of the form. Specifically, we identified records with only a partial history taken. We also identified records where despite the patient having multiple problems, only some of those problems were addressed. We also found that assessment of degree of control was not always consistent with the defined definitions taught by Erie County to its clinicians. And finally, we found some cases where the frequency of the follow up was not consistent with what the degree of control would have indicated. We are not surprised that immediately post implementation of new forms there are some problems in performance. However, if there is consistent constructive feedback to the clinicians, we have every reason to believe that the performance will improve. However, we reiterate our concern about the loss of the Medical Director and the ability to provide this type of feedback. We understand there is an interim plan that is being put in place but we have no sense as to whether the physician service contracted will effectively review and provide feedback to the clinicians. The problem of delayed initial chronic care visit has been somewhat mitigated by the strategy to utilize the initial chronic care visit form in lieu of the history and physical form. This insures that an initial chronic care visit occurs at least two weeks prior to the former 30-day initial visit.

Recommendations

1. Fill the Medical Director position as quickly as possible.
2. Find a clinician with the appropriate skills to provide constructive feedback to the clinicians with regard to their performance.
3. Find a clinician in the interim to whom more complex chronic disease patients, particularly those in repeated poor control, can be referred.

11. Dental Care

Compliance Status: Substantial compliance.

Findings

The dental program, whose resources were increased prior to our last visit, continues to provide timely access to services. Patients are generally seen within a few days of submitting their request for services. However, we have concerns with regard to clinician performance. Two of the three dentists demonstrated performance where the ratios of restorations to extractions were almost 1:1. For both of them they were slightly under that. However, for one of the dentists, the ratio of restorations to extractions was 1:8. This is difficult to reconcile. We believe the

administrator should discuss with his dentists the fact that these ratios are being monitored and that the expectation is that adequate dentition requires an effort at restoration rather than immediate extraction.

Recommendations

1. Continue to monitor and report to the QI committee the ratio of restorations to extractions.
2. The QI committee, including its infection control nurse, should monitor the rate of post-extraction infections, thus requiring clinicians to report to the infection control nurse all post-extraction infections.
3. The dental program should continue to report to the infection control coordinator sterilization monitoring data on a quarterly basis.

12. Care for Pregnant Prisoners

Compliance Status: conditional substantial compliance.[*]

Findings

There were only four records for us to review, but in one of the four records, the patient arrived the first week of October and the first prenatal visit was unacceptably delayed. Since then, Erie County has adopted a policy that requires the initial history and physical on pregnant females to be performed within the first seven days of arrival. The policy also requires the first prenatal visit to occur within the first 14 days. In addition, we found that with the switch to a new obstetric service, namely Women and Children's Hospital, the success achieved in receiving the necessary prenatal encounter progress notes from ECMC has not been sustained. However, since the monitoring visit, the leadership of the health care program reached an agreement with Women and Children's Hospital, which will provide critical prenatal data to the jail program for each prenatal visit. What is required are the necessary prenatal progress notes which provide such important data as blood pressure, weight, fetal heart tones, abdominal circumference measurements, urinalysis data as well as complete blood count data. Since this area was in substantial compliance previously and there appears to be a good faith commitment to rectifying these problems, we have created the conditional compliance status as described earlier.

Recommendation

1. Insure that for all pregnant females the history and physical occurs no later than by day 7 and the initial obstetric prenatal exam occurs no later than day 14.
2. The QI program should track and report on the timeliness of both the services for pregnant females.

[*] If during the Sixth monitoring visit the commitments to initial prenatal visits within the first few weeks, as well as prenatal visit data are verified, the assessment stands as is. If either commitment is not verified, the compliance status for both the Fifth and Sixth visits will be partial compliance.

3. The QI program should also track the availability of progress notes from the prenatal obstetrician.

13. Dietary Allowances and Food Service

Compliance Status: Partial compliance.

Findings

We are encouraged that a dietician is about to be hired on a part-time basis on contract. We understand her responsibilities include analyzing the nutritional content of the current master menu as well as proposing a heart healthy master menu along with a cost analysis. As we understand, these tasks are to be accomplished by April so that they should be available by the time of our next visit.

Recommendations

1. Proceed with the dietician contract and make available to us by the time of our next visit the work product.

14. Health Screening of Food Service Workers

This area has been in compliance for 18 months.

15. Treatment and Management of Communicable Diseases

Compliance Status: Partial compliance.

We discussed with the infection control nurse the duties of that role. As part of that discussion, we indicated the need to implement a procedure where all clinicians who identified and treated a case of presumptive MRSA are required to immediately notify the infection control nurse. But culture proven and presumptively treated MRSA cases must be tracked monthly.

Recommendations

1. Establish a procedure to facilitate tracking these categories of MRSA monthly.

16. Sexual Abuse

Compliance Status: Substantial compliance.

Findings

It is our impression that this County was making every effort to have its leadership well educated on this issue. We were able to review three records of individuals who had alleged sexual abuse since our last review. In all three instances, the patients were handled appropriately. In one of the three, although paperwork was returned by the medical center to the jail, it did not include all of the required elements, most specifically the documentation of the physical exam assessment by

the clinician. The leadership of the health care program must meet with the leadership of ECMC to make it clear what data and what documents are required to be returned to the jail.

Recommendation

1. This item should be monitored by the QI program for all alleged sexual abuse incidents.

17. Quality Management

Compliance Status: Partial compliance.

Findings

We identified that the minutes were created by a clerical staff person not well versed in quality improvement. Therefore, the minutes contained anecdotal summary statements as opposed to data. We were able to explain some of the basic requirements of QI minutes and most importantly that QI minutes be designed in a way that educated staff who are unable to attend the QI meeting on both what was learned and why any changes in processes or procedures are being designed. The design is to mitigate causes of subthreshold performance. We did appreciate that the QI program was looking at multiple major service areas, such as medication administration, sick call, urgent/emergent care, consultations, chronic care, dietary and infection control. However, as a person who did not attend the meeting, I did not learn much from these minutes. It is clearly important that the quality improvement program be utilized to facilitate the achievement of substantial compliance in the remaining areas. This would suggest some key areas be reviewed at least twice before our next visit.

Recommendations

1. The QI program should focus activities on chronic disease, scheduled offsite services and sick call, with each area reviewed at least twice prior to our next visit.
2. Other areas in this report in which we recommend quality improvement activities should also be addressed at least once prior to our next visit.
3. The person assigned to create the minutes must be knowledgeable in quality improvement philosophy and methodology and therefore be capable of creating minutes which will be educational for the line staff who are not able to attend the QI meetings.

18. Review of Clinical Care by Responsible Physician

Compliance Status: Substantial compliance.

Findings

Again, I have been provided with the actual quality of care review forms for each of the clinicians and have been impressed with the accuracy and candor of the Medical Director in identifying and providing instruction for the clinicians with regard to their deficiencies. However, I am concerned that with the departure of the Medical Director this process will be

continued. I am especially concerned that the interim strategy, which includes at most a day and a half per week onsite by two clinicians who share the day and a half, will be adequate to provide this review, particularly with regard to one clinician whose performance has been identified as more problematic and whose work will have to be reviewed at least monthly if not more frequently.

Recommendations

1. The transitional Medical Director contracted services should include at least quarterly reviews of the clinical performance of clinicians so as to facilitate performance improvement.

III. Protection from Harm

E. Training of Officers with Regard to Sexual Abuse and Policy on Handling Sexual Abuse

Compliance Status: Substantial compliance.

Findings

Both the policy and the training are consistent with an assessment of substantial compliance.

Recommendation None.

I. Training of Medical and Mental Health Staff

Compliance Status: Substantial compliance.

Findings

Both the medical and mental health staff have completed their training with regard to the handling of sexual abuse. The percent trained is well above 90%.

Recommendation None.

J. Suicide Prevention Program

e. Privacy

Compliance Status: Substantial compliance.

Findings

See number 3 under Medical Care section.

Recommendation None.

f. Assessment of Inmates in Detoxification

Compliance Status: Substantial compliance.

Findings

The detoxification unit is now in a brand new, well-designed infirmary housing and the ability of the nursing staff to perform their assessment screens has been enhanced.

Recommendation

1. The QI program should continue to monitor the compliance of the nursing staff in performing the CIWA assessments.

D. Training of Officer Staff with Regard to Suicide Prevention Training

Compliance Status: Substantial compliance.

Findings

This area remains in substantial compliance. All who require training have received it.

3. Detoxification Training Program

Compliance Status: Substantial compliance.

Findings

All of the required medical staff have had this training.

Recommendation None.

Respectfully submitted,

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Medical Monitor

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