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Civil Rights Division

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September 20, 2013

BY ELECTRONIC MAIL

Frank W. Berry, Commissioner
Georgia Department of Behavioral Health and Developmental Disabilities
2 Peachtree Street, NW
Atlanta, GA 30303

Clyde L. Reese III, Commissioner
Georgia Department of Community Health
2 Peachtree Street, NW
Atlanta, GA 30303

Re: United States v. Georgia, No. 1:10-CV-249-CAP, Year Three Compliance

Dear Commissioners Berry and Reese:

We write to offer the United States' assessment of the State's third year under the Settlement Agreement in this matter, Doc. Nos. 112, 115, 151 & 171. We applaud both the significant strides made by the State in the mental health arena and the efforts underway in the developmental disabilities arena. The State's actions have benefitted hundreds if not thousands of individuals with mental illness in Georgia, and we expect a similar benefit for vulnerable individuals with developmental disabilities.

Year Two

We are mindful of where this case stood one year ago. Two years into the Settlement Agreement, the State's Assertive Community Treatment teams faced significant challenges, and the State's nascent Quality Management System was behind schedule. These vital pieces of a properly functioning community mental health system stood on a razor's edge.

Assertive Community Treatment is a mental health treatment team that delivers comprehensive, individualized, and flexible support to individuals with mental illness where they live and work. It is a vital support for serving some of the most vulnerable individuals with mental illness in integrated, community settings. Despite the State's good faith efforts at implementation, roughly half of the State's teams under the Agreement were failing at providing this service with fidelity. We agreed to defer the compliance rating in exchange for the State agreeing to work with the Independent Reviewer, both to perform a root cause analysis of the

teams' problems and to implement a corrective action plan to fix the underlying problems and prevent additional problems going forward. Doc. No. 143 & 145.

Quality Management, on the other hand, utilizes data, analysis, and feedback loops to enable a state mental health system to self-identify and self-correct issues before and as they arise. It is the primary system component for ensuring that individuals receive safe, quality, and integrated services—outcomes foundational to a state's service system. Last year, the system was too nascent to meet the reporting schedule required by the Agreement. We agreed to push back by six months the beginning and ending reporting dates under the Agreement, and the State agreed to enlist expert technical assistance and to provide us with a provisional report upon which to comment. Doc. No. 143 & 145. The Court approved these approaches and modified the Agreement accordingly. Doc. No. 151.

Year Three

The State's turnaround in both Assertive Community Treatment and Quality Management was stunning. By the end of the year, the State was serving more than 1200 individuals through 22 full-fidelity Assertive Community Treatment teams. The State Plan on Assertive Community Treatment is now a model plan that clearly describes how the State intends to support the team service model. Throughout the year, funding mechanisms were changed to improve the sustainability of team services, training and technical assistance to teams was responsive to team needs, and monitoring of team fidelity was solid. In the area of Quality Management, the State's Plan now establishes a blueprint for the operation of an effective Quality Management program. The Plan includes a comprehensive description of the State's Quality Management leadership, organization, and structure, along with a work plan that sets forth measurable and realistic goals for the year and identifies specific tasks, responsible persons, and target completion dates in order to accomplish those goals. We commend the State's thoughtful incorporation of feedback from our Quality Management consultant, Linda Redman. In each provision under each area, the State received ratings of substantial compliance.

All told, the Independent Reviewer, Elizabeth Jones, rated the State substantially compliant with 68 of the 70 provisions scored in Year Three of the Agreement. Doc. No. 175 at 13–25. These bare numbers represent real services for real people in community settings. In addition to Assertive Community Treatment, the State provided: toll-free, statewide access to information about community resources and to crisis call response; a 24-hour crisis walk-in center; two crisis stabilization programs to divert individuals in crisis from hospitalization; mobile crisis services to respond to crises in 100 of the State's 159 counties; four Community Support Teams, three Intensive Case Management teams, and 15 Case Management service providers supporting more than 2200 individuals with mental illness in community-based settings; supported housing vouchers to more than 1000 individuals; supported employment services to almost 700 individuals; and peer support services to almost 600 individuals. We note, in particular, the State's continued excellence in supported housing. Stable housing can act as a key foundation in helping an individual recover from mental illness, and the State once again exceeded the Agreement's housing requirements by more than 20%.

We pause to note that the State's service system for individuals with developmental disabilities now stands on its own razor's edge. To be sure, the State once again exceeded the requirements for responding to individuals with developmental disabilities in crisis, both in the number of mobile crisis teams and the number of crisis respite homes, which together served almost 1000 individuals this past year. The State also far exceeded the required number of diversion waivers, which divert individuals from institutionalization by providing the home and community-based services that individuals with developmental disabilities need to live independently. The State created 597 total new waivers this review period, more than double the total requirement of 250, a significant financial commitment and achievement by the State for serving individuals with developmental disabilities in community settings.

However, the State has continued to struggle with implementing quality service plans for individuals with developmental disabilities. This area is central to the State providing safe, integrated community services to individuals with developmental disabilities. After consecutive findings of noncompliance in Years One and Two, the Parties and Ms. Jones began intensive collaborative efforts to address the quality issues. See Doc. No. 170 at 3–4. Recognizing that these efforts require time to take root and bear fruit, and seeing the success of the previous year's conditioned deferrals, we agreed to defer the compliance rating for six months, after which the Ms. Jones will issue a focused compliance report. In turn, the State agreed to increased oversight by Ms. Jones and to seek technical assistance on critical issues. The Court approved this approach and modified the Agreement accordingly. Doc. No. 171.

Year Four

Looking ahead, the State has many important milestones in the coming year. In the mental health arena, efforts already are underway to bring the State's crisis apartments, which generated the only two noncompliance ratings this review period, in line with the requirements of the Agreement. Efforts also are underway to analyze and meet the housing capacity required by the end of Year Five of the Agreement. Moreover, the State will need to connect together the Agreement's individual service provisions to transform the system from properly-laid building blocks into a functioning, connected mental health system. In the developmental disabilities arena, the continued focus on quality and integration for individuals with developmental disabilities is paramount. Key pieces include the thoughtful transition of individuals from the State Institutions, the support coordination received by individuals, the quality of integrated day activities provided to individuals, and the careful oversight of these efforts by the State.

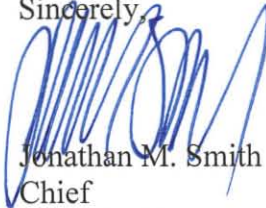
Conclusion

We applaud the State's continued embrace of the Agreement. We cannot overstate the importance of the collaborative, open, and candid leadership brought to bear this year by Commissioner Berry, Deputy Commissioner Judy Fitzgerald, and Settlement Agreement Coordinator Pamela Schuble as the Parties problem solved barriers to successful implementation of the Agreement. Also key was the State's continued close collaboration with Ms. Jones and her consultants, Angela Rollins, David Lynde, and Martha Knisley. We further commend the Department of Behavioral Health and Developmental Disability's substantial commitment of resources and burgeoning outreach to the stakeholder amici group; the Department of

Community Health's accessibility and responsiveness to Ms. Jones; and the Georgia Legislature's continued approval of the funding required for the implementation of the Agreement. Finally, we thank Ms. Jones for her tireless diligence, insight, professionalism, and attention to detail. All of these pieces are critical for the State ultimately to reach the outcomes required by the Agreement and accomplish the purpose and goal of the Agreement—that Georgians with developmental disabilities and mental illness live integrated, meaningful, safe, and self-directed lives. In the words of one individual receiving supported employment services under the Agreement: "When I am at my job, I don't feel like I have a mental health issue. When I am at my job, people treat me like a person who does his job. I look forward to getting up and going to work everyday." Doc. No. 175 at 97.

If you have any questions, please do not hesitate to contact me at (202) 514-6255, or the attorneys assigned to this matter: Robert Koch at (202) 305-2302, Katherine Houston at (202) 307-0652, or Regan Bailey at (202) 353-3113.

Sincerely,



Jonathan M. Smith

Chief

Special Litigation Section

cc: Mark H. Cohen
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