

MAINE STATE LEGISLATURE

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STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-89-088

PAUL BATES, et al.,

Plaintiffs

v.

BRENDA HARVEY, COMMISSIONER,
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,

COURT MASTER'S PROGRESS
REPORT PURSUANT TO
PARAGRAPH 299

Defendants

The following report covers the period from December 1, 2007 to May 31, 2008. Because the Court has been briefed on the outcome of the recently enacted supplemental budget and has received the most recent quarterly progress report from the Department, this report will be somewhat abbreviated.

Managed Care:

After meeting with the Court for a pre-hearing conference, I approved a proposed amended APS healthcare agreement on March 27, 2008. The amended agreement was fully executed and went into effect on April 15, 2008. In furtherance of that agreement and in consultation with counsel, I approved, with amendments, the Mainecare ASO Level of Care Criteria on May 12, 2008 and the Mainecare ASO Retrospective Review Plan on June 2, 2008. The managed care initiative is now fully operational and reports and operational results should be received in due course.

Implementation of Comprehensive Mental Health Plan:

In my last six month progress report, I noted that a number of the Plan components were delayed in implementation. The Department's most recent report demonstrates progress. Component #14, hospital contracts for involuntary inpatient beds has been completed. Components # 33 and 34, realignment of residential service, is justifiably delayed because of proposed federal rule changes. Component # 37, housing database, has made sufficient progress for this point in time. Component #58, evaluation of peer services, has been abandoned but the services have been continued. The need for evaluation is not apparent and I would entertain a Plan amendment to remove it. Component # 62, increase crisis beds, has been implemented to the extent practicable. Component # 68, telemedicine for psychiatric consultations, Component # 73, emergency department training, and Component 88, expanded vocational rehabilitation services, progress is reported with regard to each. Component #116, mental health agency licensing reviews, is not completed but the staffing problem is being addressed.

There are questions whether the Department's report is accurate in every respect with regard to implementation. Any issues in this regard will be appropriately addressed within the context of the certification process with respect to the approved compliance standards.

Interpretation of Consent Decree.

By eliminating certain mental health services for non-class members who do not qualify for service under MaineCare, the recently enacted budget called into question the

State's funding obligation under the terms of the Consent Decree. Persons who are eligible for Medicare, but barely above the qualifying income level, could be impacted most seriously. Counsel and I have initiated informal dispute resolution and will promptly report any result we might achieve to the Court.

DATED: June 4, 2008

A handwritten signature in black ink, appearing to read "Daniel E. Wathen", written over a horizontal line.

Daniel E. Wathen
Court Master