

APPENDIX I
COMMUNICATIONS FROM PARTIES- ACTION STEPS

Children's Administration Compliance Plans for Action Steps (submitted August 17, 2007)

- Proposed Revised Compliance Plans..... Appendix I, p.2

Plaintiffs' Response to Compliance Plans on Action Steps

- Comments on August 17th Compliance Plans (September 7, 2007).... Appendix I, p.10

Proposed Revised Compliance Plan

June 2007

MENTAL HEALTH

Goal 3, Outcome 3, Benchmark 1, Additional Action Step 4 (Implementation Plan, p. 33)

Settlement Agreement G3/O3/B1/AdditionalA4:

The Department's contracts for community-based mental health and substance abuse services will specify that failure to assess or serve children in foster care within required timeframes will require documentation to the Mental Health Division and the Children's Administration. This documentation will be reviewed by the Department to determine if the contract language needs clarification for the Settlement goals to be accomplished. The Department will provide on a semi-annual basis to the Panel a summary of the number of denials by RSNs and the reasons for those denials.

Original Settlement language:

Original	Plan to Complete	Date	Supporting Documentation
<i>The Department's contracts for community-based mental health and substance abuse services will specify that failure to assess or serve children in foster care within required timeframes will require documentation to the Mental Health Division and the Children's Administration. This documentation will be reviewed by the Department to determine if the contract language needs clarification for the Settlement goals to be accomplished. The Department will provide on a semi-annual basis to the Panel a summary of the number of denials by RSNs and the reasons for those denials.</i>		11/01/2006	

Details and Deadlines:

The first status update on this Action Step was due in November of 2006 and was to consist of a semi-annual report with a summary of the number of denials by the RSNs and the reasons for those denials.

A status update was provided in the February 2007 Progress Report, which explained that at that time the MHD was not able to provide the report on the number of denials or the reasons for the denial.

The 3rd Monitoring Report found the item incomplete and noted:

“Compliance plan needs to address how tracking of denials will be accomplished (not “if” or “whether” as noted in materials).

Request for extension for compliance plan not approved. Compliance plan is due in accordance with timeline set forth in the settlement agreement. “

The MHD submitted a proposed compliance plan on June 29, 2007. The Panel issued a decision letter dated July 18, 2007, in which it did not approve the proposed compliance plan. The decision included the following comments:

“[1] The 9/08 timeframe for delivery of data in the proposed compliance plan is not acceptable, given that reporting to the Panel was expected to begin 11/06. Data mechanism should be developed in advance of policy implementation on 10/1/07, such that data collection can begin immediately. Panel will expect data for the period of 10/1/07-12/31/07 to be submitted in the 2/1/08 update.

[2] Panel requests clarification on why contract changes are necessary. Current contractual requirements for notification of consumers and parents/ guardians would appear to cover the requirement that CA be notified of denials, given that CA is serving as the guardian of children in out-of-home care.

[3] Compliance plan for this action step needs to address failure to provide services within required timeframes, in addition to denials of mental health services.” *Numbers added for response clarification.*

Status Update:

The Panel’s comments have been numbered and the Department will provide a response corresponding to each comment number.

[1] The proposed compliance plan included the development and implementation of a data reporting mechanism to track the denials and the reasons for the denials by January 1, 2008.

In response to the Panel’s expectation to receive data for the period of October 1 through December 31, 2007, the MHD offers the following clarification regarding terminology used in the MHD service system and our ability to provide the data as requested.

In the MHD contract with the RSNs, a person is considered “denied” when they initially request services and are denied an intake assessment. They are “denied” because they are not eligible for Medicaid services. In that case, a Notice of Action (NoA) is sent out to the guardian and the communication protocol established in the status updated for MH Goal 3, Outcome 2, Action Step 3 comes into play.

The RSN contracts, which become effective October 1, 2007, clarifies the requirement for the RSN to send the Notice of Action (NoA) to both the CA regional office and the MHD (as a back up). MHD will institute a process on October 1, to retrieve and track any NoA copy that comes in to the division, which should correspond with CA receiving a NoA as well. The new process will allow the MHD to provide data for October through December, 2007 in the February Progress Report as requested by the Panel. Receipt

of a NoA will also trigger the alternative treatment planning by CA, as envisioned under MH Goal 3, Additional Action Step 5.

If a child is Medicaid eligible, they will receive an intake assessment. Once the intake assessment is completed, a determination is made as to whether services will be authorized based on the Access to Care Standards. If services are not authorized, a Notice of Determination (NoD) is issued to the child and his/her guardian. This not called a "denial" in the system. The RSN reports all determinations of non-authorization on their data submissions. The MHD tracks the non-authorizations, as well as the reasons for the non-authorization. This data collection began in July of 2007. The data has a three-month lag. This lag means that the MHD will not be able to provide the data on the non-authorizations for the period of July 1 through September 30, 2007, until January 2008.

[2] The contract modifications were made to clarify the RSN's requirement to provide notice to the regional CA office. While the Panel is correct that CA should be receiving the notice as the legal guardian of the foster child, as noted in the first proposed compliance plan, the data the MHD had received was not reliable, therefore additional clarification was necessary.

[3] The Department requests clarification regarding the Panel's comment that the compliance plan needs to address failure to provide services within required timeframes. The language of the Action Step calls for a semi-annual summary of the number of denials and reasons. The language also calls for the contracts to require documentation to the MHD, which the new contract language will require beginning in October 2007. The contracts already require service provision in specific timeframes. The Action Step does not require the Department to address failure to provide services within a required timeframe. The related Benchmarks address service provision and particular timeframes, but this Action Step does not. The Department requests the Panel to provide clarification as to whether it expects strategies to address a failure to provide services within the timeframe as part of the semi-annual report required in the Action Step or in response to Benchmark performance.

Proposed Compliance Plan

June 2007

MENTAL HEALTH

Goal 3, Outcome 3, Benchmark 1, Additional Action Step 5 (Implementation Plan, p. 33)

Settlement Agreement G3/O3/B1/Additional A5:

For children who are not eligible for assessment and/or treatment services within Medicaid Standards of Care, the Department (CA and MHD) will identify and implement strategies to provide alternative plans, assessments, and treatment services for these children. The Department will provide on a semi-annual basis to the Panel a summary of the number of children not eligible within Medicaid Standards of Care and the types of alternative services provided for these children.

Original Settlement language:

Original	Plan to Complete	Date	Supporting Documentation
<i>For children who are not eligible for assessment and/or treatment services within Medicaid Standards of Care, the Department (CA and MHD) will identify and implement strategies to provide alternative plans, assessments, and treatment services for these children. The Department will provide on a semi-annual basis to the Panel a summary of the number of children not eligible within Medicaid Standards of Care and the types of alternative services provided for these children.</i>		11/01/2006	

Details and Deadlines:

The first status update on this Action Step was due in November of 2006 and was to consist of a semi-annual report with a summary of the number of children not eligible for services under the Medicaid Standards of Care and the types of alternative services provided.

A status update was provided in the February 2007 Progress Report, which explained that at that time the data MHD had received from the RSNs was not reliable and work was being done to identify methods to improve the data.

The 3rd Monitoring Report found the item incomplete and noted:

“Panel’s expectation in this action step is to receive information on alternative mental health services provided to the specific children who did not meet access

to care standards, rather than a general list of available services as provided in the update materials.

Request for extension for compliance plan not approved. Compliance plan is due in accordance with timeline set forth in the settlement agreement.”

The Department submitted a proposed compliance plan on June 29, 2007. The Panel issued a decision letter dated July 18, 2007, in which it did not approve the proposed compliance plan. The decision included the following comments:

[1] “The 9/08 timeframe for delivery of information in the proposed compliance plan is not acceptable, given that reporting to the Panel was expected to begin 11/06. Documentation of staffings should begin when policy is implemented on 10/1/07. Panel will expect data for the period of 10/1/07-12/31/07 to be submitted in the 2/1/08 update.

[2] Panel requests clarification on why contract changes are necessary. Current contractual requirements for notification of consumers and parents/guardians would appear to cover the requirement that CA be notified of denials, given that CA is serving as the guardian of children in out-of-home care.”
Numbers added for response clarification.

Status Update:

The Panel’s comments have been numbered and the Department will provide a response corresponding to each comment number.

[1] The proposed compliance plan included the development and implementation of a data reporting mechanism to track the denials and the reasons for the denials by January 1, 2008.

In response to the Panel’s expectation to receive data for the period of October 1 through December 31, 2007, the MHD offers the following clarification regarding terminology used in the MHD service system and our ability to provide the data as requested.

In the MHD contract with the RSNs, a person is considered “denied” when they initially request services and are denied an intake assessment. They are “denied” because they are not eligible for Medicaid services. In that case, a Notice of Action (NoA) is sent out to the guardian and the communication protocol established in the status updated for MH Goal 3, Outcome 2, Action Step 3 comes into play.

The RSN contracts, which become effective October 1, 2007, clarifies the requirement for the RSN to send the Notice of Action (NoA) to both the CA regional office and the MHD (as a back up). MHD will institute a process on October 1, to retrieve and track any NoA copy that comes in to the division, which should correspond with CA receiving a NoA as well. The new process will allow the MHD to provide data for October through December, 2007 in the February Progress Report as requested by the Panel. Receipt

of a NoA will trigger the alternative treatment planning by CA, as envisioned under this Action Step.

If a child is Medicaid eligible, they will receive an intake assessment. Once the intake assessment is completed, a determination is made as to whether services will be authorized based on the Access to Care Standards. If services are not authorized, a Notice of Determination (NoD) is issued to the child and his/her guardian. This not called a “denial” in the system. The RSN reports all determinations of non-authorization on their data submissions. The MHD tracks the non-authorizations, as well as the reasons for the non-authorization. This data collection began in July of 2007. The data has a three-month lag. This lag means that the MHD will not be able to provide the data on the non-authorizations for the period of July 1 through September 30, 2007, until January 2008.

[2] The contract modifications were made to clarify the RSN’s requirement to provide notice to the regional CA office. While the Panel is correct that CA should be receiving the notice as the legal guardian of the foster child, as noted in the first proposed compliance plan, the data the MHD had received was not reliable, therefore additional clarification to the RSNs was necessary.

Proposed Compliance Plan

June 2007

MENTAL HEALTH

Goal 4, Outcome 1, Benchmark 1, Action Step 2 (Implementation Plan, p. 34)

Settlement Agreement G4/O1/B1/A2:

The Department will explore and implement additional strategies for increasing the likelihood that a child in foster care will have the same individual provider for the course of his/her mental health and/or substance use care.

Original Settlement language:

Original	Plan to Complete	Date	Supporting Documentation
<i>The Department will explore and implement additional strategies for increasing the likelihood that a child in foster care will have the same individual provider for the course of his/her mental health and/or substance use care.</i>		11/01/2006	

Details and Deadlines:

The first status update on this Action Step was due in September and December of 2006. The Department was to explore strategies and discuss potential strategies with the Panel.

A status update was provided in the February 2007 Progress Report, which explained that discussions had taken place with the MHD and the RSNs, but that further work was needed to identify workable strategies that could be brought to the Panel for discussion. There were discussions at the February Panel meetings on this issue, but a resolution was not identified.

The 3rd Monitoring Report found the item incomplete and noted:

“Department has not explored strategies or discussed strategies with the Panel.”

The Department submitted a proposed compliance plan on June 29, 2007. The Panel issued a decision letter dated July 18, 2007, in which it did not approve the proposed compliance plan. The decision included the following comments:

“Contract language alone is not sufficient; action step calls for **additional** strategies. Compliance plan indicates that MHD is exploring additional strategies; revised compliance plan should specify the strategies being proposed to promote continuity of provider and timeframes for their implementation. Compliance plan should include strategies to address issues noted in February 2006 Braam

Implementation Plan (footnote, page 34) such as the practice of changing therapists simply for administrative reasons (e.g. assigning short-term interns as therapists, transferring child due to therapist's high caseload, payment issues, etc.)."

Compliance Plan:

The MHD has identified an additional strategy. The MHD is seeking input and strategies from the providers themselves. The MHD has sent a request to the RSN Administrators throughout the state to provide any specific policies or procedures they may have in place that reinforces a continuity of care. The request was also sent to a provider organization with the request that they send it on to their individual providers for feedback.



September 7, 2007

VIA FACSIMILE

Carrie Whitaker
Braam Panel
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Seattle, WA 98105-6299

Re: Plaintiffs' Responses to Department's August 17th Compliance Plans

Dear Carrie:

Below are the responses of the Plaintiffs' Attorneys to the proposed compliance plans for the Action Steps from the Panel's July 18th Decision Letter (submitted by the Department on August 17th, 2007).

1. MENTAL HEALTH - Goal 3, Outcome 3, Benchmark 1, Additional Action Step 4 (documentation of denials of m/h and s/a services)

Plaintiffs have no substantive comments but agree that the clarification requested by the Department in section [3] of their compliance plan is a reasonable request.

2. MENTAL HEALTH - Goal 3, Outcome 3, Benchmark 1, Additional Action Step 5 (alternative plans for service denials)

Plaintiffs have no comments on this compliance plan.

2. MENTAL HEALTH - Goal 4, Outcome 1, Benchmark 1, Action Step 2 (provider continuity)

The strategies required by the action step are specific "strategies being proposed to promote continuity of provider and timeframes for their implementation." The Panel notes that the

Compliance plan should include strategies to address issues noted in February 2006 Braam Implementation Plan (footnote, page 34) such as the practice of changing therapists simply for administrative reasons (e.g. assigning short-term interns as therapists, transferring child due to therapist's high caseload, payment issues, etc.).

In contrast, the "additional strategy" offered by the Department is to survey RSNs and a provider to find ideas about existing strategies that might be replicated. While the information gathered by this approach might prove helpful, the Department still offers no strategies to improve

Carrie Whitaker
September 7, 2007
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practice, other than including a reference in contract language. This clearly falls far short of what the action step and the Panel have requested and should be rejected.

Please let me know if you have any questions.

Sincerely,

/ct/

Casey Trupin