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October 29, 2008

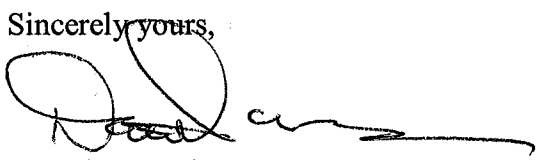
Michele Garwood
Clerk of Courts
Kennebec County Superior Court
95 State Street
Augusta, ME 04330-5680

Re: Paul Bates, et al. v. Brenda Harvey, Commissioner, Department of Health and Human Services, et al. – Docket No. CV-89-088

Dear Ms. Garwood:

Enclosed for filing in the above case please find my Recommendation pursuant to paragraph 295 of the Settlement Agreement.

Sincerely yours,



Daniel E. Wathen

DJS/zpm
Enclosure
cc: Katherine Greason, Esq.
Phyllis Gardiner, Esq.
Helen Bailey, Esq.
Peter Darvin, Esq.

STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
DOCKET NO.: CV-89-88

| | | |
|---|---|---|
| PAUL BATES, et al., | ) | |
| | ) | |
| Plaintiffs | ) | |
| | ) | RECOMMENDATION |
| v. | ) | |
| | ) | |
| COMMISSIONER, DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al., | ) | |
| | ) | |
| Defendants | ) | |

In accordance with to Paragraph 295 of the Settlement Agreement and Defendants' request for formal dispute resolution dated October 8, 2008, I make the following factual findings and recommendation with regard to the scope of the Department's financial obligation to provide mental health services to clinically qualified non-class members who are not financially eligible for MaineCare:

1. Prior to the fall of 2007, the Department provided grant funding on either a "cost settled" or "fee for service" basis for a variety of mental health services for persons with serious and persistent mental illness who were not financially eligible for MaineCare, without regard to whether they were class members. The Department's budget was reduced in the final months of FY08 by an executive curtailment order that reduced grant funding for certain mental health services for persons who were not financially eligible for MaineCare. The curtailments were carried forward in the supplemental budget document presented to the Legislature by the Department and were ultimately enacted for the balance of FY08 and for FY09. The beginning balance for grant funding for FY08 was reduced from approximately $27 Million to $26 Million, and further reduced to $25

Million for FY09. The Department assured the Legislature, the undersigned and the Court that class members, unlike non-class members, would continue to receive the services secured to them by the Settlement Agreement, from the remaining grant funding despite their MaineCare ineligibility.

2. The Department's position with respect to its obligation to fund services for class and non-class members is detailed on the chart attached hereto as Exhibit A, and has been implemented at least in part under the existing budget. The budget for the current year was not intended to distinguish between class and non-class members for state funded non-MaineCare services, i.e., housing subsidies, peer supports, vocational services and crisis services. Important distinctions, however, were intended with respect to services covered by the State's Medicaid Plan, i.e., community integration, ACT, daily living supports, skills development, out-patient services, medication management and residential treatment. Class members who are financially ineligible for MaineCare were to receive these benefits from state grant funds if they have an ISP-identified and assessed need. Non-class members who are financially ineligible for MaineCare, were to be ineligible to receive skills development, out-patient services, individual and group counseling, medication management and residential treatment. I am informed by the Department that, to the extent that grant funds are available, non-class members may receive community integration, ACT or daily living skills under the departmental policy attached hereto as Exhibit B. There are a number of non-class members who are clinically eligible for MaineCare services who do not meet the financial eligibility criteria. Some are ineligible because they have a work history that makes them eligible for SSDI, or income from other sources, at levels high enough to marginally exceed the

income limits for MaineCare. (I base this conclusion on the reliable testimony of providers presented to legislative committees and my familiarity with the personal circumstances of clients in the community and awaiting discharge from Riverview Psychiatric Center.) In short, their income is too high for MaineCare but not high enough to pay for the mental health services they require.

3. Throughout the presentation of the FY09 supplemental budget to the Legislature, questions arose whether the withdrawal of funding for non-class members, while continuing to provide state funding for services for class members who are similarly ineligible for MaineCare, would violate the parity provisions of the Settlement Agreement. The question admits of substantial uncertainty. After extensive, but inconclusive discussions, the Department requested formal dispute resolution to determine the scope of its financial obligation to non-class members, in light of the Settlement Agreement.

4. Subparagraph 32G of the Settlement Agreement provides "non-class members shall not be deprived of services solely because they are not members of the Plaintiff class". Paragraph 37 requires that the Comprehensive Plan "verify with supporting data that in meeting class members identified needs, Defendant's shall not deprive non-class members of services solely because they are not members of the class". In discussing the parity provisions, the Law Court held in Bates v. Department of Behavioral and Developmental Services that:

> "The Settlement Agreement commits the State to provide broad-based, community-oriented treatment programs for class members. When the State provides such programs, the ADA as interpreted in Olmstead, requires that those programs be available, without discrimination, to class members and other individuals in the community qualifying for such services who are entitled to

> reasonable accommodation pursuant to the ADA. Accordingly, our interpretation of this Settlement Agreement consistent with the ADA, supports the Plaintiff's arguments and the trial courts determination that compliance with the Settlement Agreement requires the State to provide the same community mental health services to qualifying non-class members as are required for class members."

Bates v. DHHS, 2004 ME 154, ¶¶ 67 & 68.

The Law Court construed the ADA to require that "community based treatment programs be administered, supported and made available 'with an even hand' to qualifying individuals with mental illness without discrimination for or against individuals in institutional treatment". Id. at ¶¶ 59 & 68 (emphasis added). Under the current funding formula, however, class members continue to receive state funding for services that are necessary for their discharge from institutional confinement, while non-class members are denied state funding for similar services that may be necessary to prevent their involuntary admission to such an institution.

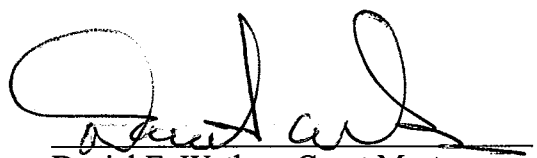
5. The Department now contends that a "qualifying non-class member" under the Law Court's ruling in Bates refers to a person financially qualified for MaineCare rather than a person qualified by virtue of having a serious and persistent mental illness. I find no basis for such a limited reading of "qualifying" in either the Law Court's opinion or the U.S. Supreme Court's related opinion in Olmstead v. L. C., 527 U.S. 581 (1999) or its progeny. It is instructive to note that the comprehensive plan submitted in 2006 by the Department in response to the Law Court's remand in Bates, specifically states that:

> "The consumers covered by this plan are those people with serious and persistent mental illness who are thereby eligible for Community Support Services, and all class members. This approach is consistent with the terms of the Law Court's decision of December 17, 2004, and the Americans with Disabilities Act".

Consent Decree Plan at 3. It is this plan which I approved on behalf of the Court on October 13, 2006. To withdraw or withhold services for clinically eligible non-class members, as proposed in Exhibit A, would violate the parity provisions of the Settlement Agreement as construed by the Law Court, as well as the Department's own comprehensive plan.

Accordingly, pursuant to Paragraph 295 of the Settlement Agreement, I recommend that the Department reinstate service eligibility in accordance with their plan of October 13, 2006 and resume state funding, seeking any necessary appropriations to provide mental health services included in the State's Medicaid Plan (i.e., community integration, ACT, daily living supports, skills development, out patient services, medication management and residential treatment) for all persons who are clinically eligible, even though they may be financially ineligible for MaineCare. Nothing stated herein, however, should be considered as preventing the imposition of a fee for service on non-MaineCare eligible qualified non-class members and class members who meet reasonable income thresholds that may be established.

Dated: October 29, 2008



Daniel E. Wathen, Court Master

EXHIBIT A

## Defining the State's Obligation under the October 2006 *Bates* Consent Decree Plan and the Settlement Agreement to Pay for Services for CLASS MEMBERS (DRAFT 8/22/08)

| Core Service | Class Members |
|---|---|
| **Community Integration** | MaineCare funding for those who<br>• meet §17 clinical criteria<br>• are financially eligible for MaineCare and<br>• whose benefits package includes this service<br><br>General Fund[1] for those who are not eligible for MaineCare (either financially, or clinically) or whose MaineCare benefits package does not include this service (i.e., those who have NonCategorical MaineCare eligibility only) |
| **Intensive Case Management – Outreach only** | This service is supported by the General Fund and provides outreach to those in jails or shelters and others w/o CI or ACT who exhibit behaviors that would meet §17 clinical criteria. |
| **Assertive Community Treatment** | MaineCare funding for those who<br>• have an assessed need for this level of care<br>• meet clinical criteria for §17 services<br>• are financially eligible for MaineCare<br>• and whose benefits package includes this service<br><br>General Fund for those who are not financially eligible for MaineCare or whose MaineCare benefits package does not include this service (i.e., those who have NonCategorical MaineCare eligibility only) |

[1] For purposes of this chart, "General fund" means state dollars that are not Medicaid seed.

**Defining the State's Obligation under the October 2006 *Bates* Consent Decree Plan and the Settlement Agreement to Pay for Services for CLASS MEMBERS (DRAFT 8/22/08)**

| Core Service | Class Members |
|---|---|
| **Daily Living Supports** | MaineCare funding for those who<br>• have an assessed need for this service<br>• meet clinical criteria under §17<br>• are financially eligible for MaineCare and<br>• whose benefits package includes this service<br><br>General funds for those not qualified to receive MaineCare who<br>• are hospitalized and need this service to be safely discharged, or who<br>• are deemed at imminent risk of hospitalization under ¶98<br><br>If sufficient General funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |
| **Skills Development** | MaineCare funding for those who<br>• have an assessed need for this service<br>• meet clinical criteria under §17<br>• are financially eligible for MaineCare and<br>• whose benefits package includes this service<br><br>General fund for those not qualified to receive MaineCare who<br>• are hospitalized and need this service to be safely discharged, or who<br>• are deemed at imminent risk of hospitalization under ¶98<br><br>If sufficient General funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |
| **Outpatient Services (individual and group counseling)** | MaineCare funding for those who<br>• have an assessed need for this service<br>• meet level of care criteria under §65<br>• are financially eligible for MaineCare and<br>• whose benefits package includes this service<br><br>General fund for those not qualified to receive MaineCare who<br>• are hospitalized and need this service to be safely discharged, or who<br>• are deemed at imminent risk of hospitalization under ¶104<br><br>If sufficient General funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |

**Defining the State's Obligation under the October 2006 *Bates* Consent Decree Plan and the Settlement Agreement to Pay for Services for CLASS MEMBERS (DRAFT 8/22/08)**

| Core Service | Class Members |
|---|---|
| **Medication Management** | MaineCare funding for those who<br>• have an assessed need for this service<br>• are financially eligible for MaineCare<br>• meet level of care criteria for §65 and<br>• whose benefits package includes this service<br><br>General fund for those not qualified to receive MaineCare who<br>• are hospitalized and need this service to be safely discharged, or who<br>• are deemed at imminent risk of hospitalization under ¶104<br><br>If sufficient General funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |
| **Residential Treatment** | MaineCare funding for those who<br>• meet admission criteria for the program<br>• meet level of care criteria for §97 and<br>• are financially eligible for MaineCare<br><br>General fund for those not qualified to receive MaineCare who<br>• are hospitalized and need this service to be safely discharged, or who<br>• are deemed at imminent risk of hospitalization under ¶104<br><br>If sufficient General funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |
| **Housing Subsidies (BRAP)** | This is a General Fund supported program for those who<br>• meet clinical criteria of MaineCare §17<br>• are receiving or are in the process of being reinstated w/SSI or SSDI; and<br>• are on a wait list for Federal Section 8 Rental Assistance or were granted a waiver by OAMHS<br><br>If sufficient General funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |

**Defining the State's Obligation under the October 2006 *Bates* Consent Decree Plan and the Settlement Agreement to Pay for Services for CLASS MEMBERS (DRAFT 8/22/08)**

| Core Service | Class Members |
|---|---|
| **Crisis Services** | Crisis programs are supported through General Fund grants to contracted providers and MaineCare and are available to all. |
| **Peer Services** | These services are supported through General Fund grants to contracted providers and are available to all. |
| **Involuntary Inpatient Hospitalization** | Hospital admissions for those who meet statutory criteria for involuntarily commitment are paid for through<br>• MaineCare for those who are financially eligible and meet §45 or §46 level of care criteria, as applicable, or<br>• General fund if patient has no other payor source and hospital is under contract to OAMHS |
| **Voluntary Inpatient at Community Hospitals** | MaineCare pays for hospital admissions for those who<br>• meet admission criteria<br>• are financially eligible and<br>• meet §45 or §46 level of care criteria, as applicable |
| **Vocational Services - Employment Specialists** | This service is supported by General Funds and is available to all those with an assessed need for the service.<br><br>If sufficient General funds are not available, then any ISP-identified needs for service would be tracked as unmet needs. |
| **Vocational Services – Benefits Counseling (Community Work Incentive Coordinators)** | This service is supported through federal funds and some state General Funds and pays for all those who<br>• are receiving a cash benefit through SSI or SSDI<br><br>If sufficient General funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |
| **Vocational Services – Long Term Employment Support** | This service is supported by General Funds and pays for all those who<br>• have an assessed need for the service and<br>• have a job<br><br>If sufficient funds are not available, then any ISP-identified needs for service would be tracked as unmet needs. |

**Defining the State's Obligation under the October 2006 *Bates* Consent Decree Plan and the Settlement Agreement to Pay for Services for CLASS MEMBERS (DRAFT 8/22/08)**

| Core Service | Class Members |
|---|---|
| **Vocational Services – Voc Rehab** | This service is supported through a combination of federal and state funds and pays for all those who<br>• have an assessed need for the service and<br>• meet federal voc rehab criteria[2]<br><br>If sufficient funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |

[2] This means the individual must: a) have a physical or mental impairment that hinders them from preparing for, engaging in, or retaining employment consistent with individual's abilities and capabilities, and b) require voc rehab services to prepare for, secure, retain, or regain employment consistent w/ unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

**Defining the State's Obligation under the October 2006 *Bates* Consent Decree Plan and Settlement Agreement to Pay for Services for QUALIFIED NON-CLASS MEMBERS (DRAFT – 8/22/08))**

| Core Service | Qualified Non-Class members are adults with serious and persistent mental illness as defined by MaineCare §17 clinical criteria |
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| | |
|---|---|
| **Community Integration** | MaineCare funding for those who<br>• have an assessed need for this service<br>• meet clinical criteria under §17<br>• are financially eligible for MaineCare<br>• and whose benefits package includes this service[1] |
| **Intensive Case Management – Outreach only** | This service is supported by the General Fund and provides outreach services to all those in jails or shelters and others w/o CI or ACT who exhibit behaviors that would meet §17 clinical criteria. |
| **Assertive Community Treatment** | MaineCare funding for those who<br>• have an assessed need for this service<br>• meet clinical criteria under §17<br>• are financially eligible for MaineCare<br>• and whose benefits package includes this service |
| **Daily Living Supports** | MaineCare funding for those who<br>• have an assessed need for this service<br>• meet clinical criteria under §17<br>• are financially eligible for MaineCare<br>• and whose benefits package includes this service |
| **Skills Development** | MaineCare funding for those who<br>• have an assessed need for this service<br>• meet clinical criteria under §17<br>• are financially eligible for MaineCare<br>• and whose benefits package includes this service |

[1] For example, childless adults ("non-cats") do not get this MaineCare service.

**Defining the State's Obligation under the October 2006 *Bates* Consent Decree Plan and Settlement Agreement to Pay for Services for QUALIFIED NON-CLASS MEMBERS (DRAFT – 8/22/08))**

| **Core Service** | **Qualified Non-Class members are adults with serious and persistent mental illness as defined by MaineCare §17 clinical criteria** |
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|---|---|
| **Outpatient Services (individual and group counseling)** | MaineCare funding for those who<br>• have an assessed need for this service<br>• meet level of care criteria for MaineCare §65<br>• are financially eligible for MaineCare<br>• and whose benefits package includes this service |
| **Medication Management** | MaineCare funding for those who<br>• have an assessed need for this service<br>• meet level of care criteria for MaineCare §65<br>• are financially eligible for MaineCare<br>• and whose benefits package includes this service |
| **Residential Treatment** | MaineCare funding for those who<br>• meet admission criteria for program<br>• meet level of care criteria for MaineCare §97<br>• and are financially eligible for MaineCare |
| **Housing Subsidies (BRAP)** | This is a General Fund supported program for those who<br>• meet clinical criteria of MaineCare §17<br>• are receiving or are in the process of being reinstated w/SSI or SSDI and<br>• are on a wait list for Federal Section 8 Rental Assistance or were granted a waiver by OAMHS.<br><br>If sufficient funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |
| **Crisis Services** | Crisis programs are supported through General Fund grants to contracted providers and MaineCare and are available to all. |

**Defining the State's Obligation under the October 2006 *Bates* Consent Decree Plan and Settlement Agreement to Pay for Services for QUALIFIED NON-CLASS MEMBERS (DRAFT – 8/22/08))**

| **Core Service** | **Qualified Non-Class members are adults with serious and persistent mental illness as defined by MaineCare §17 clinical criteria** |
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| | |
|---|---|
| **Peer Services** | These services are supported through General fund grants to contracted providers and are available to all. |
| **Involuntary Inpatient Hospitalization** | Hospital admissions for those who meet statutory criteria for involuntarily commitment are paid for through<br>• MaineCare for those who are financially eligible and meet §45 or §46 level of care criteria, as applicable<br>• or General fund if patient has no other payor source and hospital is under contract to OAMHS |
| **Voluntary Inpatient at Community Hospitals** | MaineCare pays for hospital admissions for those who<br>• meet admission criteria<br>• are financially eligible and<br>• meet §45 or §46 level of care criteria, as applicable |
| **Vocational Services - Employment Specialists** | This service is supported by General Funds and is available to all those with an assessed need for the service.<br><br>If sufficient funds are not available, then any ISP-identified needs for the service would be tracked as unmet needs. |
| **Vocational Services – Benefits Counseling (Community Work Incentive Coordinators)** | This service is supported through federal funds and some state General Funds and is available to all those who are receiving a cash benefit through SSI or SSDI. |
| **Vocational Services – Long Term Employment Support** | This service is supported by General Funds and is available to those who<br>• have an assessed need for the service, and<br>• have a job.<br><br>If sufficient funds are not available, then any ISP-identified needs for service would be tracked as unmet needs. |

**Defining the State's Obligation under the October 2006 *Bates* Consent Decree Plan and Settlement Agreement to Pay for Services for QUALIFIED NON-CLASS MEMBERS (DRAFT – 8/22/08))**

| **Core Service** | **Qualified Non-Class members are adults with serious and persistent mental illness as defined by MaineCare §17 clinical criteria** |
|---|---|

| **Vocational Services – Voc Rehab** | This service is supported through a combination of federal and state funds and pays for all those who<br>• have an assessed need for the service, and<br>• meet federal voc rehab criteria.[2]<br><br>If sufficient funds are not available, then any ISP-identified needs for service would be tracked as unmet needs. |
|---|---|

[2] This means the individual must: a) have a physical or mental impairment that hinders them from preparing for, engaging in, or retaining employment consistent with individual's abilities and capabilities, and b) require voc rehab services to prepare for, secure, retain, or regain employment consistent w/ unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

# Unmet Needs Budget Requests (8/22/08 Draft)

| This chart shows those unmet need categories for which Defendants have an obligation to make budget requests. | | |
|---|---|---|
| **Need Category** | **Need Subcategory** | Budget Requests |
| 7c PEER, RECOVERY, AND SUPPORT RESOURCES | 7c-i Peer recovery center | X |
| | 7c-ii Recovery workbook group | X |
| | 7c-iii Social club | X |
| | 7c-iv Peer-run trauma recovery and empowerment group | X |
| | 7c-v Wellness recovery and action planning | X |
| | 7c-vi Family support | X |
| | 7c-vii Other peer, recovery, and support resources (briefly describe) | X |
| | **7c PEER, RECOVERY, AND SUPPORT RESOURCES** | X |
| 7i EDUCATIONAL RESOURCES | 7i-i Adult education (other than GED) | |
| | 7i-ii GED | |
| | 7i-iii Literacy assistance | |
| | 7i-iv Post high school education (inc. 2 and 4 yr courses of study) | |
| | 7i-v Tuition reimbursement related to employment goals | |
| | 7i-vi Other educational resources (briefly describe) | |
| | **7i EDUCATIONAL RESOURCES** | |
| 7g LEGAL RESOURCES | 7g-i Advocates | |
| | 7g-ii Guardian (private) | |
| | 7g-iii Guardian (public) | |
| | 7g-iv Other legal resources (briefly describe) | |
| | **7g LEGAL RESOURCES** | |
| 7l TRANSPORTATION RESOURCES | 7l-i Transportation to ISP-identified services | |
| | 7l-ii Transportation to other ISP-identified activities | |
| | 7l-iii After hours transportation (evenings/weekends) | |
| | 7l-iv Other transportation resources (briefly describe) | |
| | **7l TRANSPORTATION RESOURCES** | |
| 7a MENTAL HEALTH SERVICES | 7a-i Assertive Community Treatment (ACT) | X |
| | 7a-ii Community Integration Services | X |
| | 7a-iii Dialectical Behavioral Therapy | X |
| | 7a-iv Family psycho-educational treatment service | X |
| | 7a-ix Intensive Community Integration services | N/A |
| | 7a-v Group Counseling | X |
| | 7a-vi Individual counseling | X |
| | 7a-vii Inpatient psychiatric facility | X |
| | 7a-viii Intensive Case Management | X |
| | 7a-x Psychiatric medication management | X |
| | 7a-xi Other mental health services (breifly describe) | X |
| | **7a MENTAL HEALTH SERVICES** | X |
| 7f. HEALTH CARE | 7f-i Dental services | |
| | 7f-ii Eye care services | |
| | 7f-iii Hearing services | |
| | 7f-iv Physical therapy | |
| | 7f-v. Physician/medical services | |
| | 7f-vi Other health care resources (briefly describe) | |
| | **7f. HEALTH CARE** | |
| 7h FINANCIAL SECURITY RESOURCES | 7h-i Assistance with managing money | |
| | 7h-ii Assistance with securing public benefits | |
| | 7h-iii Representative payee | |
| | 7h-iv Other financial security resources (briefly describe) | |
| | **7h FINANCIAL SECURITY RESOURCES** | |
| OTHER RESOURCES (briefly describe) | Other resources | |
| | **OTHER RESOURCES (briefly describe)** | |
| 7b MENTAL HEALTH CRISIS PLANNING SERVICES | 7b-i Development of mental health crisis plan | — |
| | 7b-ii Development of mental health advance directives | — |
| | 7b-iii Other mental health crisis planning resources (briefly describe) | — |
| | **7b MENTAL HEALTH CRISIS PLANNING SERVICES** | |
| 7d SUBSTANCE ABUSE SERVICES | 7d-i Outpatient substance abuse services | * |
| | 7d-ii Residential treatment substance abuse services | * |
| | 7d-iii Other substance abuse services | * |
| | **7d SUBSTANCE ABUSE SERVICES** | |
| | | |
| 7e HOUSING RESOURCES | 7e-i Supported apartment | X |
| | 7e-ii Community residential facility | X |
| | 7e-iii Residential treatment facility (group home) | X |

# Unmet Needs Budget Requests (8/22/08 Draft)

| Need Category | Need Subcategory | Budget Requests |
|---|---|---|
| | 7e-iv Assisted living facility | |
| | 7e-v Nursing home | |
| | 7e-vi Residential crisis unit | X |
| | 7e-vii Rent subsidy (Section 8, BRAP, Shelter Plus) | X |
| | 7e-viii Other housing resources | |
| | **7e HOUSING RESOURCES** | |
| 7m PERSONAL GROWTH/COMMUNITY PARTICIPATION RESOURCES | 7m-i Avocational activities | |
| | 7m-ii Recreation activities | |
| | 7m-iii Social activities | |
| | 7m-iv Spiritual activities | |
| | 7m-v Other personal growth/community participation resources (briefly describe) | |
| | **7m PERSONAL GROWTH/COMMUNITY PARTICIPATION RESOURCES** | |
| 7k LIVING SKILLS RESOURCES | 7k-i Daily living supports services | X |
| | 7k-ii Day support services | X |
| | 7k-iii Occupational therapy | X |
| | 7k-iv Skills development services | X |
| | 7k-v Other living skills resources (briefly describe) | X |
| | **7k LIVING SKILLS RESOURCES** | X |
| 7j VOCATIONAL / EMPLOYMENT RESOURCES | 7j-i Benefits counseling related to employment | X |
| | 7j-ii Club house/transitional and/or peer vocational support | X |
| | 7j-iii Competetive employment (no supports) | |
| | 7j-iv Supported employment | X |
| | 7j-v Vocational Rehabilitation | ** |
| | 7jv-vi Other vocational/employment resources (briefly describe | X |
| | **7j VOCATIONAL / EMPLOYMENT RESOURCES** | |

1a1Marya/Unmet Needs

X to be included in budget requests of the DHHS Office of Adult Mental Health Services
\- incorporated in DHHS budget requests for Community Integration Services
* to be included in budget requests of the DHHS Office of Substance Abuse Services
** to be included in budget requests of the Department of Labor, Bureau of Vocational Rehabilitation

EXHIBIT B

**Criteria for General Fund ("Grant") Funding of Community Integration (CI), Assertive Community Treatment (ACT), and Daily Living Support Services (DLS) for FY 2009**

OAMHS will provide General Fund ("grant") dollars for CI, ACT, and DLS services as follows:

1. OAMHS will provide general fund dollars for CI services for AMHI Consent Decree class members who do not have MaineCare, who have a MaineCare spend down, or who have Non Categorical MaineCare eligibility

2. OAMHS will provide general fund dollars for ACT or DLS services for AMHI Consent Decree class members who do not have MaineCare, who have a MaineCare spend down, or who have Non Categorical MaineCare eligibility only if the class members also meet the clinical eligibility criteria for MaineCare section 17 for those services.

3. OAMHS will provide general fund dollars for CI, ACT or DLS services to non class members who do not have MaineCare, who have non categorical MaineCare, or who have a MaineCare spend down only if those non class members

   a. meet the MaineCare section 17 Clinical Eligibility criteria except that OAMHS will only provide general fund dollars for CI, ACT or DLS services to non class members who have one of the following primary diagnosis on Axis I of the multiaxial assessment system of the current version of the *Diagnostic and Statistical Manual of Mental Disorders*,:
      i. Bipolar Disorder or Major Depression (DSM IV codes: 296 except codes 296.90)
      ii. Schizophrenia (DSM IV code 295 inclusive of sub codes),
      iii. Psychotic Disorder NOS (DSM IV code 298.9)
      iv. Delusional Disorder (DSM IV code 297.1)
      v. Post Traumatic Stress Disorder (DSM IV code )

   AND

   b. are in at least one of the following priority populations:
      i. Persons being discharged from the following facilities:
         - Psychiatric Hospitals or Psychiatric Units within General Hospitals
         - Jails or Prisons
         - Crisis Stabilization Units;

      ii. Persons with categorical MaineCare spend down whose income is under 150% of the federal poverty guidelines; or
      iii. Persons with Social Security Disability whose income is under 150% of the federal poverty guidelines.

The Mental Health Team Leaders with the OAMHS Medical Director may upon request in very limited situations waive the requirements listed above.