

STATE OF MAINE
KENNEBEC, ss.

DEED & BILL
NANCY A. DESJARDIN

FEB 7 1997

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-89-88

PAUL BATES, et al.

CLERK OF COURTS
KENNEBEC COUNTY

Plaintiffs

STIPULATED ORDER

v.

MELODIE J. PEET, et al.

Defendants

The parties have agreed and the court finds that the defendants have substantially complied with the terms of this Court's Order dated March 8, 1996 and that the defendants have purged themselves of civil contempt.

The parties recognize that it is desirable: (a) to establish a method for attempting to locate class members who have not yet been located, and for maintaining a list of updated addresses for class members; (b) to consolidate and utilize information obtained as part of the assessment process; (c) to ensure that class members receive needed services in accordance with the underlying Consent Decree and Settlement Agreement; and (d) to establish the manner in which treatment and discharge issues pertaining to 150-day stay patients are to be resolved;

With no adjudication of law or fact, with no admission by any party, and by agreement of the parties, the following is ORDERED:

I. JURISDICTION

This Court has continuing jurisdiction to enter this Order pursuant to the Settlement Agreement, ¶ 12.

arrange these examinations to assure that they are completed within 10 days of receipt of Defendants' monthly report. Defendants shall bear the costs of the examinations. The Plaintiffs' counsel shall notify Defendants of any disagreements and provide them with a copy of their examiner's report. If after 2 days, there continues to be a dispute, Plaintiffs' counsel shall notify the Court Master who will render a decision within 5 days of the date of receipt of the notice of dispute. The parties will have 5 days from the date of the Court Master's decision to appeal the decision to the Superior Court. Hearing will be scheduled within 5 days of filing the appeal.

C. The independent examiner shall include treatment recommendations for each of the patients examined. If the parties agree upon the appropriateness of treatment, that treatment shall be implemented. If the parties cannot agree, they shall submit their dispute to the Court Master who shall issue a recommended treatment plan within 14 days. The Court Master may convene an evidentiary hearing or retain an expert at his election. The Court Master's recommendation on treatment shall be considered a "recommended decision" as that term is used in paragraphs 295 and 296 of the Settlement Agreement and all related procedures shall apply.

D. Upon request of Plaintiffs' counsel, Defendants will pay an examiner of Plaintiffs' counsel's choice to evaluate and to make treatment recommendations regarding patients identified in monthly reports as resistant to discharge planning. Defendants shall bear the costs of the examinations. If the parties cannot agree about the treatment recommendations for the individuals examined, then the procedures outlined in paragraph B above shall apply.

E. Defendants shall make all necessary and reasonable efforts to discharge all long stay patients by the date originally projected. Defendants shall provide a detailed explanation to the Court Master in their monthly report of the reasons why any long stay patient was not discharged on the date originally projected in the discharge plan. Plaintiffs' counsel may request a hearing before the Court Master for further orders as may be appropriate. Said hearing shall be held in accordance with the provisions of paragraph B above.

F. The Defendants will report monthly information highlighting any problem in development of resources for individuals whose admission to AMHI exceeds 150 days.

G. For purposes of application of this order, a patient who is placed on convalescent status shall be considered discharged. Upon such a patient's readmission to AMHI during convalescent status, all of the provisions of this Order shall apply if the patient's stay exceeds 30 days.

H. Compliance with the provisions of this paragraph shall be deemed

Plans that meet the requirements of Paragraphs 58 through 69 of the Settlement Agreement for each class member who has been assessed pursuant to the March 8, 1996 Order of this Court, for each class member who declined an assessment but who currently receives services from providers who contract with Defendants, and for any other class member who expresses a desire to Defendants to have an ISP. Plaintiffs shall submit any objections to the Defendants' proposed plan by January 20, 1997. Defendants shall have 5 days after receipt of any such objection in which to file a response. The Court Master shall issue a ruling on the proposed plan within 5 days of receipt of Defendants' response. Either party may appeal any such ruling to the Court within 5 days. Provided, Defendants shall not be required to develop an ISP for any class member who declines to participate in its development or who cannot be located or resides outside the State of Maine. The assessment conducted pursuant to the March 8, 1996 Order shall be considered the assessment for purposes of paragraph 61 of the Settlement Agreement, except that additional assessment information that the class member provides shall be considered in the development of the ISP.

C. For class members who decline to participate in the development of an ISP (other than those who remain unlocated or reside outside the State of Maine), the Defendants shall file with the Court Master for his approval and review, by February 14, 1997, a plan that describes how Defendants will address the needs of such class members. Plaintiffs shall submit any objections to the Defendants' proposed plan by February 19, 1997. Defendants shall have 5 days after receipt of any such objection in which to file a response. The Court Master shall issue a ruling on the proposed plan within 5 days of receipt of Defendants' response. Either party may appeal any such ruling to the Court within 5 days.

D. Defendants shall, on or before April 21, 1997, notify all class members not receiving services of their right to receive services, by means of a mailing to class members' last known mailing addresses.

V. 150-DAY PATIENTS

A. On a monthly basis, Defendants shall compile a list of all patients whose admission to AMHI exceeds 150 days and who remain patients at AMHI. For each patient, Defendants shall note whether they believe the patient is safe for discharge and include documentation for any findings that the patient is unsafe. If Defendants believe that any patient is resistant to treatment or discharge, they shall note that fact as well. Defendants shall include a projected date of discharge.

B. For any patient whom Defendants believe to be unsafe, Plaintiffs' counsel may request that the patient be assessed for safety for discharge by an independent examiner of Plaintiffs' counsel's choice. Plaintiffs' counsel shall

D. By January 24, 1997, complete a review of existing plans and associated budgets, in light of Defendants' analysis of class member needs and any other change in circumstance that has arisen since the March 8, 1996 Order of this Court.

E. By January 31, 1997, report to the Court (a) the process and methodology employed by Defendants to review their plans and associated budgets; (b) what plans or budget items need to be modified in light of the review; and (c) the nature of all modifications that are needed to any plan or associated budget.

F. By February 7, 1997, Defendants shall submit a request for modification of any plan or associated budget to the Court Master for his review and approval. Plaintiffs shall have until February 19, 1997 to comment on the request. The Court Master shall complete his review and rule on the request by February 26, 1997. Either party may appeal such ruling to the Court within five days.

IV. ASSESSMENTS

The Defendants completed assessments of 2,202 class members as of October 30, 1996. As of October 30, 1996, there were 338 class members who resided in the State of Maine who declined to participate in a formal clinical assessment after being contacted by Defendants. This category of class members is wide-ranging and includes those persons who indicate that they do not need or want services, as well as persons who were not able to participate in the assessment process because of their mental illness.

A. Defendants shall, by January 15, 1997, identify all class members residing in Maine who, in their estimation, do not require services at this time. Defendants shall provide a list of these individuals to the Court Master for his review and approval, stating in each instance the basis for their conclusion. Plaintiffs shall have 10 days to object to the inclusion of any class member on the list. Within 5 days of receipt of any such objection, and in any event on or before February 3, 1997, the Court Master shall approve the list to the extent there is no objection thereto, and shall rule with respect to any objection. Either party may appeal any such ruling to the Court within 5 days.

B. By January 15, 1997, Defendants shall submit to the Court Master for review and approval, a plan for the development of Individualized Support

to Consent Decree activities, identifying contacts for questions and requests.

5. Cooperate with all hospitals contracting with Defendants to provide EI beds or diversion services to develop an information sharing system.

C. Defendants will maintain an interim database, pending the development of on-line capacity with the regions, which will be based on the following:

1. ICMs will provide biweekly reports of changed class member addresses, based on outreach efforts.

2. CDCs will complete contact sheets for all telephone interactions with class members, and will record any changed addresses. This information will be provided in biweekly summary reports.

3. All information relative to changes in class member status or addresses will be entered in the Defendants' MIS, within 10 business days of receipt in Central Office of the reports from the ICMs and CDCs.

Additionally, lists of class member addresses shall be available on request to the Master, Plaintiffs' counsel and the Court.

III. PLANNING

Defendants shall accomplish the following tasks in order to utilize the information obtained through the assessment process to review existing plans and budgets:

A. By January 10, 1997, develop a protocol to extract needs data from the individual assessments that were completed as of October 31, 1996, and construct a data base containing needs information.

B. By January 10, 1997, review all assessments completed as of October 31, 1996 in order to identify and analyze needs of class members.

C. By January 10, 1997, develop a methodology to project the needs of class members who have not been assessed as of October 31, 1996.

II. LOCATION

Defendants shall continue to make efforts to locate class members, and shall maintain, verify and update their list of class member addresses, as follows:

A. Defendants will utilize the following methods, on a quarterly basis, to locate class members who remained unlocated as of October 31, 1996:

1. Search data bases and lists provided by the Department of Corrections, the Department of Motor Vehicles, the Department of Human Services, the National Credit Bureau, the Bureau of Vital Statistics, and the Maine State Police.
2. By March 31, 1997, establish a routine information sharing system with county jails and with Probation and Parole.
3. Cross-reference addresses obtained from any source in order to identify phone numbers for potential contact.
4. As new information becomes available, attempt to establish telephone contact by utilizing any telephone numbers obtained by Defendants with regard to any class member.
5. At appropriate intervals, contact pertinent third parties, including friends, relatives, significant others and case workers, for purposes of locating class members and verifying their addresses.

B. Defendants will utilize the following methods to maintain and update current lists of class member addresses:

1. Perform a quarterly review of Medicaid data and information required from contract providers for all class members who are in-service.
2. Incorporate, on a quarterly basis, all cross-referenced data obtained by virtue of the process detailed in subparagraph II (A)(1), above.
3. Send quarterly mailings to class members who are not in-service with stamped return envelopes or postcards.
4. By March 31, 1997, develop and disseminate a brochure related

compliance with paragraphs 45 through 47 of the Settlement Agreement for the population of 150-day patients covered by this paragraph.

VI. CONSTRUCTION

This Order shall be construed in such fashion as to harmonize with the underlying Consent Decree and Settlement Agreement. Nothing herein shall be construed to obligate the Defendants to take any action contrary to existing or subsequently enacted law.

VII. TERMINATION

This Order shall terminate concurrently with the termination of the underlying Consent Decree herein.

DATE: *January 30, 1997*

CONSENTED TO ON BEHALF OF DEFENDANTS:

Katherine Greason
FRANCIS ACKERMAN
JAMES D. WILLIAMS III
KATHERINE GREASON

Assistant Attorneys General

CONSENTED TO ON BEHALF OF PLAINTIFFS:

Peter Darwin
PETER DARVIN, ESQ.
HELEN BAILEY, ESQ.

Plaintiffs' Counsel

The clerk is directed to incorporate this Order into the docket by reference.

DATE: *2/6/97*

Valley
JUSTICE, SUPERIOR COURT