

Bates vs. DHHS Consent Decree Quarterly Report: February 1, 2009

Part 1: Systems Development

Of the 119 components to the system development portion of the Consent Decree Plan of October 2006, 107 have been accomplished or deleted per amendment and are no longer reported. The remaining 12 components are reported below.

With the 8/1/08 quarterly report, OAMHS deleted past reporting on components that was no longer needed to understand the current status of the component, leaving only the most current, salient reporting.

COMPONENT of Consent Decree Plan	PAGE	DUE DATE	ACTION Note: This is a cumulative report. Each action is listed by the filing date of the quarterly report. Only new attachments are included.	COMPLETED YES (X)
CHAPTER 4 – CONTINUITY OF CARE AND SERVICES				
Realignment of Services				
14. Complete contract with community hospitals with involuntary psychiatric inpatient beds	27	November 2006	<p><u>May 2008:</u> The community hospitals which were originally identified for contracts were the following: The Aroostook Medical Center (TAMC), PenBay Hospital, MidCoast Hospital, MaineGeneral Hospitals, St. Mary’s Hospital, Spring Harbor and Southern Maine Medical Center. TAMC closed its unit and the OAMHS has finalized contracts with all of the other initially identified hospitals.</p> <p>Subsequently P6 at Maine Medical Center was identified as accepting a very small number of involuntary admissions. OAMHS has spoken with Maine Medical Center staff and has sent a draft contract, which the hospital is reviewing through its legal staff and management.</p> <p><u>August 2008:</u> OAMHS continues to work towards obtaining a contract from Maine Medical Center P6. OAMHS has received a commitment to complete the contract by September 1, 2008</p> <p><u>November 2008:</u> Contract for P6 was delayed by the provider due to</p>	

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			<p>intervening activities and their lawyer's reviews. Maine Medical Center has stated that the contract should be signed by November 30, 2008.</p> <p>February 2009: OAMHS expects to receive a signed contract from P6 by the end of January. P6 has agreed to notify the Region 1 UR Nurse when they admit an individual under an emergency involuntary commitment so that a UR Review can be completed.</p>	
Performance Requirements				
Flexible Services and Housing				
34. Realign contracts to reflect realigned system	33	July 2007	<p><u>May 2008:</u> In last quarter's report, OAMHS reported (under Component #33) its intent to implement the final phase of the realignment plan submitted with the August 2007 quarterly report. This final phase called for separating the provision of support services from the physical housing units for all scattered site apartment PNMI's, through the SFY 09 contracts. As a result of a number of events outside of the control of DHHS, OAMHS has determined that it is premature to proceed with a major change in the residential service delivery on July 1, 2008.</p> <p>The most significant event is the proposed implementation of federal Medicaid rule changes related to case management and the rehabilitation option. There are a number of ways in which these rule changes would affect PNMI services, but there remain significant unanswered questions about the substance of the rule amendments and implementation requirements. Actions pending in Congress and in Federal Court may affect the content of the rules and timing of these changes. With this uncertainty, OAMHS believes that implementing phase 3 of the realignment plan at this time risks significant and repeated disruption of the mental health delivery system.</p>	

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			<p>Additionally, OAMHS has seen a number of providers in Region 1 and 3 drop both daily living support services and skills development citing a lack of referrals and the current rates. Ensuring the availability of these serves is critical for the success of the realignment, but until the issues in the federal rule changes are resolved providers are reluctant to re-enter these service areas.</p> <p>Given the state’s current budget, it is unreasonable for DHHS to proceed with realignment plans without knowing what federal resources will continue to be available.</p> <p>OAMHS will continue to monitor developments at the federal level, and will keep the parties informed, so that issues related to the realignment plan can be resolved as quickly as possible.</p> <p><u>August 2008:</u> The following summarizes our current PNMI residential programs and lays out our more specific plans moving forward as a result of the factors noted in our report in May, 2008. Currently there exist two general types of PNMI residential programs supported by OAMHS:</p> <ol style="list-style-type: none"> 1. On-Site Staff 24/7 Residential Treatment Facilities (RTF) <ol style="list-style-type: none"> a. Apartments with 24/7 on-site staff b. Congregate facilities with 24/7 on-site staff 2. Off-Site Staff – Scattered Sites <p>The Plan and the Working Paper on Housing and Residential Services describes four (4) models going forward:</p> <ol style="list-style-type: none"> 1. PNMI Community Residences for Persons with Mental Illness 2. Traditional Housing and Support Services 3. Supportive Housing 	

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			<p>4. Long Term PNMI Community Residence for Persons with Mental Illness</p> <p>PNMI Community Residences for Persons with Mental Illness and Long Term PNMI Community Residences for Persons with Mental Illness are included in On-Site Staff 24/7 /RTF. Off-Site Staff – Scattered Sites represent the current PNMI's which will be “unbundled” and will become either Traditional Housing and Support Services or Supportive Housing.</p> <p>The recent Federal CMS Rehabilitation Regulations have the potential of causing significant change to all PNMI's. The Federal CMS Regulations related to Case Management suggest significant change to the MaineCare community integration service which is the backbone to the Adult Mental Health System. At this time the OAMHS is proceeding as follows:</p> <ol style="list-style-type: none"> 1. Continue to work in the direction of unbundling the scattered site PNMI's by: <ol style="list-style-type: none"> a. Identifying and defining, by September 30, 2008, the service elements currently provided by community support workers as required under the consent decree and identified in MaineCare Section 17 which are not case management as defined by the CMS Case Management Regulation b. Refining the definition of daily living supports to be consistent with the proposed CMS Rehabilitation Regulation by September 30, 2008. c. Refining the definition of skills development services to be consistent with the proposed CMS Rehabilitation Regulation by September 30, 2008 d. Creating appropriate service type(s) that reflect those service elements currently provided by community support workers and which are not case management under the CMS 	

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			<p>Rehabilitation Regulation and fit the parameters of the CMS Rehabilitation Regulations.</p> <ul style="list-style-type: none"> e. Exploring personal care option for some of Section 17 services for individuals with psychiatric disabilities to assure that all services necessary to maintain community residence are available and that all services currently bundled into PNMI's can continue; and f. Reviewing crisis in-home services in MaineCare Section 65 that could be delivered as short term DLS or Skills Development <p>2. Continue operation of non scattered site PNMI's and refine the impact of the CMS Rehabilitation Regulation by:</p> <ul style="list-style-type: none"> a. Examining the amount of time spent on rehabilitation which is currently defined in personal care in the MaineCare Section 97 rules; and b. Identifying within this group of PNMI's those that fit the model of PNMI Community Residences for Persons with Mental Illness and those that fit the model of Long Term PNMI Community Residence for Persons with Mental Illness by September 30, 2008 and providing the lists of these PNMI's to the plaintiffs <p><u>November 2008:</u> Since the last report, the entire DHHS PNMI system is under review in relation to both the new CMS rules and CMS concerns irrespective of any federal rule changes. The work is to be completed by the end of December 2008. OAMHS is integrally involved in this activity and is part of a subgroup that includes providers and is focused on the Adult Mental Health PNMI's. The plans described in the August update above are being considered as a part of this effort. In October, 2008, OAMHS developed, with provider input, a time study to be implemented prior to the end of</p>	

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			<p>October to obtain information on the actual tasks being undertaken by direct care staff. This will be implemented for 7 days and in all types of PNMI's under contract with OAMHS.</p> <p>February 2009: The work of the PNMI Work Groups continue with the current expectation that PNMI's will come into compliance with CMS current rules in July, 2009. OAMHS continues to plan to separate services from housing for the scattered site PNMI's as of July 2009, and has identified the units and begun to examine a possible new daily service as an option for the provision of services. MaineCare policy staff and the Commissioner's office are to review the situation with CMS in early February to determine if the direction the State is taking will be acceptable.</p> <p>OAMHS completed the time study discussed in the November report and it reflects that a significant portion of the overall staff time is focused on rehabilitation. OAMHS also reviewed a small sample of the consumers who have been in PNMI's for 10 years or longer and has initially determined that these consumers will in all likelihood not meet the rehabilitation requirements. However, as other PNMI Appendices are reviewed, the possibility of using another section of MaineCare to cover personal care is being considered as a possible alternative for persons who have more needs for personal care than rehabilitation. The overall direction continues to be in accordance with the direction planned by OAMHS.</p>	
Peer Services				
49. Begin implementation of consumer participation in	35	April. 2007	<u>Feb. 2008:</u> At a 12/5/07 meeting with the Court Master and Plaintiffs' counsel, the Court Master agreed that it would be appropriate for the	

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licensing			<p>Department to present ideas for alternative ways of involving consumers in the evaluation of provider agencies' performance to the Consumer Council, and for the Council to assist in shaping of a future amendment request for this component. He approved a delay in implementation of this component to allow OAMHS to present its proposal to the Consumer Council and solicit input about methods for including meaningful consumer involvement as part of the quality improvement process.</p> <p>OAMHS has asked the Consumer Council System of Maine to identify participants for a workgroup to help develop a plan for involving consumers in quality improvement and the evaluation of a recovery oriented system of care. Individuals have expressed interest in participating, and the Council is expected to name the members at its upcoming February meeting. OAMHS will provide information and education for group members about types of evaluations and reviews, methods of evaluations, the difference between individual, program and system outcomes and reviews, etc. so that they can make informed recommendations. OAMHS anticipates that it will take 3-4 meetings of the workgroup (e.g., between February and May 2008) to develop recommendations that could form the basis for a Plan amendment request.</p> <p><u>May 2008:</u> The Statewide Consumer Council (SCC) has not yet named consumer representatives to participate in this work group. If SCC does not identify representatives, OAMHS will use other means to ensure that there are consumer representatives participating. As soon as the work group's proposal is ready, DHHS will seek an amendment to this plan component, including new time frames for implementation.</p>	

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			<p><u>August 2008:</u> The Statewide Consumer Council has submitted names of consumer representatives to participate in the Outcomes Workgroup. This Outcomes Workgroup will be a part of OMHS continuing work to measure the success and quality of care in the public mental health system. The workgroup will be comprised of consumers, providers, OAMHS and OQIS representatives. This group will engage in reviewing and selecting adult mental health behavioral/functional outcome tools. These outcome tools become the first steps in an effective outcome measurement system and will be used to:</p> <ul style="list-style-type: none"> • Guide and inform adult mental health services planning and decision-making including the appropriate level and intensity of services that may be needed; • Measure and document agency progress in identified functional outcome and strength areas; • Measure and document aggregated individual progress in identified functional outcomes and areas of strength; • Guide and inform caseload supervision and resource planning activities; • Evaluate the effectiveness of services and supports provided; and • Guide statewide services system planning and implementation. <p>The first meeting of the stakeholder group will be August 26th. The Outcomes Stakeholder group will also recommend an implementation plan which will include means for involving consumers in assisting in the administration of selected tool(s). The representatives from the Statewide Consumer Council will seek additional feedback from the CCSM during this process. Implementation of the selected tools is projected for December 2008.</p> <p><u>November 2008:</u> The Outcomes Stakeholder Group met on August</p>	

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			<p>26th, September 15th and 22nd, and on October 2nd and 20th. The purpose of this work is to choose tools that will enable consumers to provide direct information on their quality of life and progress in recovery. The individual results will be aggregated to show agency and system outcomes. People receiving community integration services are the focus, a pool of about 10,500 people who have serious and persistent mental illness. The group chose: the DIG survey (as this is currently a federal requirement), the Recovery Assessment Scale, and either the Basis-24 or the SOQ. All these tools can be taken by the consumer without the need for a second party interpretation or input, a major concern of consumers on the committee. Estimating the cost of training needs, administrative burden, electronic system needs, and of tool administration is underway, as well as consideration of a pilot using the BASIS-24 or SOQ, or both.</p> <p>The original component in the plan was consumer involvement in assessing the recovery focus of agencies. The outcomes work has shifted from the focus on recovery practices in agencies to looking at the recovery and quality of life of individual consumers as well as aggregated data to provide a picture of system outcomes.</p> <p><u>February 2009:</u> The Office of Quality Improvement has been analyzing the proposals from the stakeholder work group and gathering additional information including the cost of implementation. They are exploring the use of funding from the Data Infrastructure Grant to help defray the cost of an initial pilot of outcome measures.</p>	
50. Provide training in spring 2007	35	Spring 2007	<u>August 2007, Nov. 2007, Feb. 2008, May 2008, August 2008, November 2008:</u> See Component # 49.	

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			<u>February 2009:</u> See Component #49	
51. Begin consumer participation in licensing reviews	35	June 2007	<u>August 2007, Nov. 2007, Feb. 2008, May 2008, August 2008, November 2008:</u> See Component # 49. <u>February 2009:</u> See Component #49	
Persons Experiencing Psychiatric Crises				
62. Issue contracts to increase number or crisis beds/staff	37	January 2007	<u>August 2008:</u> Tri-County Mental Health opened its six bed facility in May and is fully operational. OAMHS accepted the Mid-Coast Mental Health proposal for a 3 bed facility using the existing facility. OAMHS reviewed and made suggested changes to the conceptual renovation plan. A target date of September 1, 2008 was established by Mid-Coast for completion of the renovation. OAMHS expects to receive actual renovation plans to review during the first week of August. Mid-Coast has identified a contractor who will be able to complete the work during August once Mid-Coast has OAMHS approval. The target date remains as September. <u>November 2008:</u> There have been some delays from Mid-Coast. PenBay Healthcare finance, which is part of the parent company for Mid-Coast, is reviewing a contract for a building contractor. OAMHS has been assured that this will be approved and construction can begin by the end of the month. Construction is expected to take 9 weeks and therefore the facility should be operational in January, 2009. <u>February 2009:</u> Mid-Coast Mental Health renovated its existing	X January 2009

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			<p>and editing process. OAMHS is developing a contract with JMPA (Justice Planning and Management Associates, training consulting firm) to shape the training content into a web-based training to be completed by September 2008.</p> <p>OAMHS received comments about the consultant's report from plaintiff's counsel on April 30. These will be forwarded to the stakeholder group for consideration.</p> <p><u>August 2008:</u> The stakeholder group received Plaintiffs' comments but did not provide any feedback. OAMHS has contracted with JPMH (Justice Planning and Management Associates) for the technological development of the web-based training. Work continues with the stakeholder group, ED staff and consumers to refine the content of the training. Work is also underway to ensure that CMEs, CEUs and other continuing education credits are available for participation in the web-based training.</p> <p><u>November 2008:</u> OAMHS is taking a two-pronged approach to this project. Work is continuing to develop a web-based training for ED staff focused on providing education about mental health recovery, how to respond to and treat persons experiencing psychiatric crisis and how to lessen trauma in EDs. OAMHS staff have also met with the Maine Hospital Association (MHA) twice to discuss how EMTALA and liability concerns affect psychiatric care in EDs, including transportation issues. Discussions with stakeholders and MHA will continue over the next quarter and it is expected that the web-based training will be posted in December 2008.</p> <p><u>February 2009:</u> The web-based training has been posted on the web with limited access and will be revised as needed based on</p>	

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			review and feedback from the stakeholder workgroup. OAMHS is in the process of arranging for CME's and CEU's (continuing education credits).	
80. Develop residential mental health services for persons with complex health needs	41	February 2007	<p><u>Nov. 2007:</u> The amendment request was submitted 10/7/07 and denied on October 25, 2007. OAMHS is considering next steps.</p> <p><u>Feb. 2008:</u> As agreed to in a meeting with the Court Master and plaintiffs' counsel on December 5, 2007, OAMHS is creating a list of consumers that have been placed from Riverview in the last year whose planning for placement was as described above (May 2007) and in the amendment. This information will provide the basis for further discussions among the parties and the Court Master.</p> <p><u>May 2008:</u> The list of consumers was provided to plaintiff's counsel on April 30, 2008, with a copy to the court master.</p> <p><u>August 2008:</u> No further activity on this component occurred in the last quarter. In the coming quarter, OAMHS will seek a meeting with the Court Master to discuss the individuals on the list provided.</p> <p><u>November 2008:</u> The meeting with the Court Master and Plaintiffs occurred on 9/10/08. While recognizing OAMHS success in undertaking individualized placements from Riverview, it was his position that the additional beds as originally proposed needed to be developed although no necessarily in one facility. OAMHS has initiated discussions regarding additional beds with TriCounty Mental Health and Oxford County Mental Health, both of whom have facilities that they currently own or have previously considered for expansion. TriCounty Mental Health is to respond with a proposal and a meeting in early November has been scheduled with Oxford County</p>	

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			<p>Mental Health to look at the facility they have in mind. The target date for completion is February 2009.</p> <p><u>February 2009:</u> Deterioration of the State’s financial situation this past quarter has forced OAMHS to place its efforts to develop the additional PNMI beds temporarily on hold.</p>	
82. Collaborate with MHA,ED Physicians, MSNA to provide training to lessen trauma in ED	42	SFY 2007	<p><u>August 2007, Nov. 2007, Feb. 2008, May 2008, August 2008, November 2008:</u> See Component #73.</p> <p><u>February 2009:</u> See Component #73</p>	
Vocational Opportunities				
88.Update the MOA between OAMHS and BRS Expanded reporting per 3/16/07 letter to the Court Master	44	October 2006 MOA Ongoing	<p><u>May 2008, Task 2:</u> Review qualitative and quantitative data and other sources to determine the array of employment services needed, the resources currently available, and solutions to obstacles.</p> <p>A draft report of data from multiple sources was circulated to workgroup members in February. The Workgroup members felt that the draft needed additional work, particularly in making comparisons and recommendations utilizing data from different data sources. OAMHS is redrafting the report on the data to be re-circulated to the Work Group. OAMHS will move the effort to review resources currently available and solutions to obstacles to the newly forming Employment Services Networks which are being managed through the Maine Medical Center employment contract.</p> <p><u>August 2008:</u> Employment Service Networks (ESNs) have been formed in all CSNs. ESNs will be meeting monthly. Six of the 7 ESNs met in June and July. The ESN in CSN 4 has not met yet.</p>	<p>X November 2006 MOA signed</p> <p>January 2008: expanded reporting completed Tasks 1, 3, and 4</p>

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			<p><u>November 2008:</u> The Employment Service Networks have been meeting monthly in all of the CSNs except CSN 4. Activities this quarter have focused primarily on possible solutions to barriers such as supported employment services fragmentation and the lack of a standard assessment of an individual’s desire to work. The development of the ESNs is positively impacting the service fragmentation. The use of a standard assessment across the adult mental health system will establish a baseline need for supported employment services. Future ESN meetings will continue to focus on qualitative and quantitative data related to resources, needs and solutions which will be used to update the Workgroup draft report.</p> <p><u>February 2009:</u> The Maine Medical Center Employment Specialists placed within host community integration organizations have distributed a self report ‘Need for Change Scale’ to consumers of CI services within their host agencies. Over the next quarter, they will be expanding the distribution to all other CI providers obtain not only information on who should be referred to the Employment Specialist but also to further document the need. Data from the Vocational Workgroup Report generally indicated that approximately 15% of CI consumers were not working and interested in working based upon unmet need data. The preliminary result by CSN of the Need for Change Scale is that between 31% (CSN 2) and 66% (CSN 6) of consumers are indicating a strong or urgent need to change their employment related situation. Based upon the Work Group Report and the more recent experience of the Employment Specialists there is a clear need to assist consumers in the area of employment. OAMHS has concluded that since there are a number of long term employment providers and more general employment services available, the greatest initial need is for</p>	

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			<p>consumers to have available an individual who can assist them to gain competitive employment. The MMC contract has been the first step in this direction with the employment of the 7 Employment Specialists.</p> <p>The Employment Service Networks noted in earlier reports continue to meet on a monthly basis with the exception of CSN 4 due to a staff vacancy which was recently filled. This quarter the members conducted a resource mapping of providers in the CSN who provide supported employment and education services. The ESN will assist in developing strategies for how to fulfill the resource need in the CSN.</p>	
<p>CHAPTER 6 - ASSURING QUALITY SERVICES</p>				
<p>107. Demonstrate the ability of EIS to produce timely and accurate data</p>	<p>56</p>		<p><u>November 2008:</u> As of September 1, 2008, the enrollment and RDS data are now submitted to APS Healthcare instead of OAMHS. APS had been doing 6 month continued stay reviews for Community Integration and ACT and now will do the reviews every 90 days to match the RDS 90 day requirement. APS Healthcare, EIS, and OAMHS staffs continue to work on software, data quality, and training issues that are an expected consequence of any major data system change. Prior to the switch to APS, providers reached a compliance rate of 92% for RDS submission and 95% for enrollments. With the switch to APS, the data for first and second quarter 2009 will likely not be as robust as the last quarter of 2008.</p> <p><u>February 2009:</u> Data generated from EIS continues to improve or remain stable with the exception of the RDS and enrollment. As of September 1, 2008, enrolment and RDS data is entered into the APS Healthcare system rather than being collected through EIS.</p>	

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			The Unmet Needs Summary in the second quarter SFY 2009 Consent Decree report details the issues that have arisen in the transition. As predicted in the last quarter’s report, the unmet needs data is not complete for the second quarter and will need an additional quarter to “debug” the APS Healthcare and EIS system.	