

EMILY Q., ET AL. V. BELSHE, ET AL.;

U.S. District Court for the Central District of California Case No. CV98-4181 AHM (AIJx). Filed May 27, 1998.

The California Department of Health Services Director, Diana Bonta, was the named defendant for the State in 1998. During the course of this litigation, the defendant was changed to the California Health and Human Services Secretary (currently Kim Belshe) who has statutory and administrative authority over both the recently (2007) renamed Department of Health Care Services, and the Department of Mental Health.

DMH is significantly involved in this litigation since DHCS has delegated to DMH the responsibility of administering the Medi-Cal reimbursed mental health services program, and DMH contracts with the Mental Health Plans (County governments) regarding the provision of EPSDT services.

In 1999, it was determined that Therapeutic Behavioral Services (TBS) eligibility is determined by the following criteria:

All current and future beneficiaries of the Medicaid program below the age of 21 in California who:

1. are placed in a Rate Classification Level (RCL) facility of 12 or above and/or a locked treatment facility for the treatment of mental health needs;
2. are being considered for placement in these facilities; or
3. have undergone at least one emergency psychiatric hospitalization related to their current presenting disability within the preceding 24 months.

TBS services are available to beneficiaries who are at risk of admission to a hospital for acute psychiatric inpatient hospital services or to psychiatric health facility for acute care as a result of behaviors that may benefit from TBS interventions.

The child meets the requirements of "at risk of" hospitalization in an acute care psychiatric facility when hospitalization is one option (not necessarily the only option) that is being considered as part of a set of possible solutions to address the child's needs. Additionally, a child meets the requirements when his or her behavior could result in hospitalization in such a facility if the facility were actually available, regardless of whether hospitalization is available.

A child meets the requirements of "being considered for" placement in an RCL 12 or above when an RCL 12 or above placement is one option (not necessarily the only option) that is being considered as part of a set of possible solutions to address the child's needs. Additionally, a child meets the requirements when his or her behavior could result in placement in such a facility if the facility were actually available, regardless of whether an RCL 12 or above placement is available.

In May 2001, Plaintiffs prevailed in this lawsuit when the court issued a permanent injunction against the state defendants. The case is now post-decision and involves DMH implementing the injunction to increase TBS utilization.

In February 2008, Federal Judge Howard A. Matz assigned a Special Master, Richard Saletta, to oversee the planning and implementation process. The Special Master implemented Phase Two of his Therapeutic Behavioral Services (TBS) planning approach, *Plan Design*, of the Three Phase Work Plan submitted to the Court on March 11, 2008. In November 2008, the Court extended jurisdiction of the lawsuit until December 2010, and adopted Special Master Richard Saletta's proposed Nine Point Plan regarding the provision of TBS.

The Department of Mental Health will take the lead for implementation of the Nine-Point Plan with the support and guidance of Plaintiffs, County Mental Health Plans, members of the Emily Q Settlement Team, specialized contract organizations, and other subject matter experts.

This webpage will serve as a tool to inform and educate interested parties about the progress of the Nine-Point Plan implementation efforts.

For further information, please contact DMH at TBS@dmh.ca.gov.