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Civil Rights Division

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November 26, 2012

BY ELECTRONIC MAIL

Frank W. Berry, Commissioner
Georgia Department of Behavioral Health and Developmental Disabilities
2 Peachtree Street, NW
Atlanta, GA 30303

David A. Cook, Commissioner
Georgia Department of Community Health
2 Peachtree Street, NW
Atlanta, GA 30303

Re: United States v. Georgia, No. 1:10-CV-249-CAP, Year Two of the Settlement Agreement

Dear Commissioners Berry and Cook:

We write to offer the United States' assessment of the State's second year under the Settlement Agreement in this matter, Doc. Nos. 112, 115, 151. As reflected in the Independent Reviewer's report, the State attained compliance with 27 of the 30 provisions scored in Year Two of the Agreement. Doc. No. 154 at 8–11. We recognize this significant accomplishment. Of particular note, the State transitioned 164 individuals with developmental disabilities from the State Hospitals into community residential settings, served an additional 117 individuals in community waivers to prevent their institutionalization, and provided family supports to 2,248 individuals to maintain their existing community support networks. In addition, the State operated 12 mobile crisis teams and 11 crisis respite homes to respond to and serve individuals with developmental disabilities who experience a crisis while living in the community; established two Community Support Teams, two Intensive Case Management teams, and five Case Management service providers to serve more than 700 individuals with mental illness in community-based settings; and provided housing vouchers to 648 individuals and bridge support funding to 568 individuals through an innovative program flexibly designed to meet individual needs and keep individuals stably housed, a key foundation for recovery from mental illness.

However, the State failed to reach compliance on three scored provisions: two regarding the quality of placements for individuals with developmental disabilities, Agreement ¶ III.A.2.b.iii, and one regarding not serving individuals under the age of 18 in the State Hospitals, Agreement ¶ III.C.1. This is the second year in a row that the State has received a rating of non-compliance on these provisions. See Doc. No. 154 at 10 & 13; Doc. No. 131 at 11 & 14. We recognize that the State since has come into compliance with ¶ III.C.1 using

thoughtful planning and oversight, which we commend. But we are particularly concerned with the State's shortcomings on ensuring that individuals with developmental disabilities transitioned into community settings are provided with the necessary supports and services. At our next meeting on the topic, we would like to discuss the State's efforts on the following: (1) the explicit instructions to providers and State regional staff on expectations for the location, size, and habilitation of placements; (2) the expectations for service coordination; (3) the development of community capacity for those with behavioral concerns; and (4) the oversight over the quality of transition planning. We know that the State shares our concern and recognizes the imperative of achieving compliance on these provisions by the end of Year Three.

In addition, the State was not scored on ten provisions under Year Two of the Agreement: two concerning the fidelity of Assertive Community Treatment teams, ¶ III.B.2.a.i, and eight concerning the State's Quality Management System, ¶¶ III.C.3.b, IV.A–C. The United States agreed with the State to amend these provisions, Doc. Nos. 143 & 145, because of unique circumstances where the State had collaborated closely with the United States and had obtained and provided technical assistance during the infancy of these key provisions. We expect that the additional time and information provided by the amendments will enable the State to achieve compliance on these foundational pieces of the Agreement in the next fiscal year.

We encourage the State to build on its Year One and Year Two successes as it continues to develop a community service system and focuses on the quality and sustainability of those services. The State is scheduled to further develop its mental health crisis system with a Crisis Service Center, mobile crisis, and crisis apartments; transition additional individuals with developmental disabilities from the State Hospitals to community settings; and provide additional integrated supported housing for individuals with mental illness as a foundation for their recovery. In its efforts, we are heartened by the State's close collaboration with the Independent Reviewer, Elizabeth Jones, and recent outreach with the amici. We also thank the State for the openness and candor in our regular parties' meetings. These communications are vital as the State continues to work toward attaining compliance with the terms of the Agreement by the Agreement's anticipated completion date.

We once again applaud the significant good-faith efforts made by the State to comply with the Agreement and the State's continued embrace of the Agreement. In particular, we commend the Department of Behavioral Health and Developmental Disability's substantial commitment of leadership, energy, and resources toward the Agreement; the Department of Community Health's accessibility and responsiveness to Ms. Jones and the United States; and the Georgia Legislature's continued approval of the funding required for the implementation of the Agreement. These pieces are all critical for the State ultimately to reach the outcomes required by the Agreement and accomplish the purpose and goal of the Agreement—that Georgians with developmental disabilities and mental illness live integrated, meaningful, safe, and self-directed lives in the community.

If you have any questions, please do not hesitate to contact me at (202) 514-6255, or the attorneys assigned to this matter: Robert Koch at (202) 305-2302 and Katherine Houston at (202) 307-0652.

Sincerely,



Jonathan M. Smith
Chief
Special Litigation Section

cc: Mark H. Cohen
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