



State of New Jersey
DEPARTMENT OF HUMAN SERVICES
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Governor

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Lt. Governor

JENNIFER VELEZ
Commissioner

MEMORANDUM

TO: Interested Parties

FROM: Kevin Martone
Deputy Commissioner *KM/PT*

DATE: August 10, 2010

SUBJECT: Delay in Implementation of Involuntary Outpatient Civil
Commitment Law, P.L. 2009, c. 112 (S-735)

P.L. 2009, Chapter 112, also known as the Involuntary Outpatient Commitment (IOC) Law, once effective on August 11, 2010, directs the Commissioner of the Department of Human Services to phase in implementation of IOC over a three-year period by selecting seven counties per year to implement the Law. For each county where the IOC Law is to be implemented, the Department, using a competitive process, will select a community service provider as the designated IOC "outpatient treatment provider" for that county and enter into a contract with that outpatient treatment provider for the cost of the services required by IOC. The Fiscal Year 2011 Appropriations Act, P. L. 2010, Chapter 35, however, did not appropriate funds to the Department to support its implementation of IOC. Consequently, the Department could not proceed to designate outpatient treatment providers necessary to support operation of the law, and will therefore be delaying the implementation of IOC at this time.

Aside from neither containing a specific appropriation for IOC, nor increasing the existing Grants-In-Aid appropriation for community services, and due to the State's fiscal situation, the Fiscal Year 2011 Appropriations Act reduced the appropriation for existing community mental health programs by over \$11 million. This funding cut follows reductions from the Fiscal Year 2009 funding level to the FY 2010 appropriation level, as well as incorporates and increases the amount of mid-year reductions implemented during Fiscal Year 2010 to balance that year's spending plan.¹ The cumulative effect of these reductions has been that the Department has reduced the amount of contract funds it pays to community

¹ Some of these targeted reductions to the community mental health system were made in order to have sufficient funds required to serve those individuals being discharged from the State Hospitals under the Division of Mental Health's Olmstead Plan, Home to Recovery and subsequent settlement agreement.

providers, which in turn has decreased the number of clients the community service providers can serve each year.

To date, the Department's implementation process has included a day-long planning process with stakeholders in December 2009, a meeting with the county adjusters' association in April 2009, and discussions with the Administrative Office of the Courts and other stakeholders – all of whom have expressed strong concerns that community treatment provider capacity is insufficient to support IOC. At the same time, the contracted mental health services provider community has emphasized that current demand for community mental health services is already greater than the capacity of the system. At present, every county has one or more community providers funded by the Division of Mental Health Services that are maintaining waiting lists for their services. Implementing IOC by, in essence, tasking the existing community providers with the new responsibilities IOC demands, without an increase in funding, would have the effect of decreasing existing services provided as well as decreasing the number of existing individuals served by community providers. As a consequence, each would be providing services to fewer individuals, and putting the individuals who will wait for services at greater risk of harm. In sum, it is evident that the existing infrastructure, without the addition of designated outpatient treatment providers, is unprepared to support this new civil commitment option.

At this time, the Department is not in a position to implement key provisions of the law and is, therefore, delaying implementation of IOC, including the designation of "outpatient treatment providers." In the meantime, the Department will also be issuing a Request For Information in order to inform the selection process for the initial counties to be phased in and "outpatient treatment providers" needed to implement IOC, as resources become available. The Department will also begin coordinating necessary training across the system. The Department will provide updates when it has more information. Please do not hesitate to contact us regarding these important issues on planning for and progress on implementation.

KM:pjt

DISTRIBUTION:

Jane Castner, Esq., Administrative Office of the Courts
Paula Dow, Attorney General
Sandra Coleman, President of the County Adjusters Association
Coalition of Mental Health Consumer Organizations
County Counsel in the Civil Commitment Court Rotation at State, County and
Short Term Care and Special Psychiatric Facilities

Office of the Public Defender
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County Human Service Directors
County Mental Health Administrators
Chief Executives of State Psychiatric Hospitals
Short-Term Care Facilities and County Psychiatric Hospitals, Special
Psychiatric Facilities, Contracted Providers
Disability Rights New Jersey
Mental Health Association of New Jersey
National Alliance on Mental Illness of New Jersey
New Jersey Association of Mental Health and Addiction Agencies
New Jersey Psychiatric Association
New Jersey Psychiatric Rehabilitation Association
Supportive Housing Association of New Jersey