



LDH PASRR PANEL DISCUSSION

September 5, 2018



PANELISTS & AGENDA

- **Overview of the recent Agreement to Resolve DOJ Findings:** Kim Sullivan, Deputy General Counsel
- **Nursing Facility Admissions and Continued Stay Requests:** Robin Wagner, Deputy Assistant Secretary, Office of Aging and Adult Services (OAAS)
- **PASRR Level II – DOJ Agreement:** Ann Darling, LCSW, Program Manager, Office of Behavioral Health (OBH)

State of Louisiana is working on plans to keep more people with serious mental illnesses out of nursing homes

Baton Rouge, La. (June 7, 2018) – The State of Louisiana and the Louisiana Department of Health announced an agreement with the U.S. Department of Justice to help ensure that people with serious mental illnesses have the opportunity to live in a community setting.

This agreement follows a review by the DOJ in December of 2016 that claimed Louisiana was unnecessarily relying on nursing facilities to serve people with serious mental illness. The Americans with Disabilities Act, or ADA, requires these individuals receive services in the most integrated setting appropriate to their needs. Based on assessments, this may mean in a setting that is less restrictive than a nursing facility such as care in a home or community-based setting.

Department of Justice

Office of Public Affairs

Wednesday, June 6, 2018

Justice Department Reaches Agreement to Resolve Americans with Disabilities Act Investigation of Louisiana's Use of Nursing Facilities to Serve People with Serious Mental Illness

The Justice Department today announced that it reached an agreement with the Louisiana Department of Health (Louisiana) to resolve its lawsuit alleging that Louisiana fails to serve people with serious mental illness in the most integrated setting appropriate to their needs in violation of the Americans with Disabilities Act (ADA). The Justice Department's complaint alleges that Louisiana places undue reliance on providing services in institutionalized settings such as nursing facilities, instead of in the community, for people with serious mental illness.

OVERVIEW OF THE RECENT AGREEMENT TO RESOLVE DOJ FINDINGS

Kim Sullivan, Deputy General Counsel

BACKGROUND

- In 2014, the United States Department of Justice (“DOJ”) initiated an investigation of the State of Louisiana’s mental health service system to assess compliance with Title II of the Americans with Disabilities Act (“ADA”).
- Following this investigation, in 2016, the DOJ concluded that Louisiana unnecessarily relies on nursing facilities to serve people with serious mental illness instead of serving them in the most integrated setting appropriate to their needs as required by the ADA.
- In June 2018, the State of Louisiana and LDH signed an agreement with the DOJ to help ensure compliance with the ADA, which requires that the State’s services to individuals with mental illness be provided in the most integrated setting appropriate to their needs.

Link to Agreement: <https://www.justice.gov/opa/press-release/file/1068906/download>

AGREEMENT GOALS

“With this Agreement, the Parties intend to achieve the goals of serving individuals with serious mental illness in the most integrated setting appropriate to their needs, to honor the principles of self-determination and choice, and to provide quality services in integrated settings to achieve these goals.”

1. Divert individuals with serious mental illness away from inappropriate nursing facility placements by requiring comprehensive evaluations and services designed to enable them to live in community-based settings; and
2. Identify people with serious mental illness who have been admitted to nursing facilities but are able to and would like to transition to the community, and provide them with transition and discharge planning and community-based services sufficient to meet their needs.

TIMELINE

September 14, 2018

Initial implementation plan due to the DOJ and the Subject Matter Expert (SME)

June 6, 2018 – December 6, 2018

Outreach/In-reach plan development

June 6, 2018 – December 6, 2019

Phase One/Initial Implementation Phase

December 6, 2019

Phase Two schedule released

INITIAL PROCESS IMPROVEMENTS

- LDH has implemented changes to the screening process for nursing home admissions and is now authorizing more temporary stays rather than long-term “permanent” stays. This means that the need for continued stay in a nursing facility will have to be justified and will come under review more often.
- OBH has formally standardized the utilization of temporary authorizations. For pre-admission PASRR Level II requests, authorization requests will not exceed 90 days (or 100 days for persons approved for convalescent care by LDH). Additionally, all individuals will receive a new PASRR Level II evaluation annually.
- Newly hired LDH Transition Coordinators have begun to perform face-to-face transition assessments with members of the target population. The pace of these assessments will increase over the next several months as staff who have already been hired become more proficient and as additional staff are on-boarded.

NURSING FACILITY ADMISSIONS AND CONTINUED STAY REQUESTS

Robin Wagner, Deputy Assistant Secretary, OAAS

GOALS OF PRESENTATION

- Overview of Nursing Facility Admissions (NFA) & Continued Stay processes managed by OAAS
- Highlight changes to OAAS NFA processes per agreement with U.S. Department of Justice (DOJ)
- Share resources and planned improvements to NFA process

ADMISSION REQUIRES 2 COMPONENTS

- LOCET
 - Called in to LA Options in Long-Term Care Hotline
 - Called in by person familiar with applicant's condition and needs (e.g., NF, hospital, other provider, family)
 - Valid for 30 days prior to admission

- PASRR
 - Level 1 Screen (document and process) completed by credentialed individual employed by NF, hospital, other provider
 - Required prior to admission to a Medicaid certified NF
 - Valid for 30 days prior to admission

LOCET AND PASRR LEVEL I OUTCOMES

Applicant Does Not Meet LOC/ No MI/ID/DD/RC

- OAAS will send denial notice with appeal rights

Applicant Meets LOC/ No MI/ID/DD/RC

- OAAS will issue a 142 (May be time limited)

Applicant Meets LOC/ MI/ID/DD/RC

- OAAS will send a *Letter of Consideration* to referral source/ applicant
- OAAS will refer application to the Level II authority

Hospital Exemptions

- OAAS will issue a 142 with a 40 day end date
- OAAS will notify the Level II Authority

CONTINUED STAY REQUESTS

- Submitted to NF Admissions Unit
- Continued Stay Request Form and supporting documents
- Timelines (being treated flexibly for now)
 - 10 days prior to HE 142 expiration
 - 15 days prior to any other time limited 142
- Regional Office Review (except for OCDD clients)
 - Desk
 - In-person

CONTINUED STAY REQUEST OUTCOMES

Applicant Meets LOC and Does Not Have MI

- OAAS will issue a 142 (May be time limited)

Applicant Meets LOC and has MI

- If MI, OAAS will refer request to OBH

Applicant Does Not Meet LOC

- OAAS will send a *Notice of Denial of Continued Medicaid Payment for Nursing Facility Services* with fair hearing and appeal rights. However, not stopping payment if approved by OBH.
-

APPEALS

- For denials of admission or continued stay
- Temp 142s are not a denial
- Must be filed within days of date on notice
- Appeals handled by DAL-LDH Section

NFA CHANGES IN RESPONSE TO DOJ FINDINGS

1. Elimination of Behavior Pathway to qualify for nursing facility admission
2. Reordering of LOCET questions

ELIMINATING BEHAVIOR PATHWAY

- Used after all other admissions pathways were explored
- Very few nursing facility applicants met on Behavior pathway alone
- Those who did admit on this pathway had no disabling condition other than Serious Mental Illness

ORDER OF LOCET

Before changes responsive to DoJ:

- Only 1% of nursing facility admission approvals by OAAS were temporary
- However, the majority of actual stays were no more than 100 days
 - 67% of new admits discharge within 100 days
- Olmstead exposure: were not demonstrating effort to serve people in least restrictive environment

TYPES OF LOCET QUESTIONS

Questions identifying conditions and needs that tend to be short term

Questions identifying conditions and needs that tend to be long term

Questions identifying needs that can be related to long-term or short-term conditions

SINCE CHANGING LOCET ORDER: EARLY RESULTS

- Increased volume of OAAS temporary approvals
 - From approximately 24/mo to 1,650/mo
- Only 17% of OAAS temporary approvals are coming back for continued stay
- Of all Continued Stay requests (7/18):
 - 15% received permanent 142
 - 78% were referred to OBH for decision

RESOURCES

Guide to Nursing Facility Admissions and Continued Stay Requests

- Anticipated issue in October, 2018
- Intended for nursing homes, hospital discharge departments, and other referral sources
- Webinars and guide posted to web

Call OAAS Nursing Facility Admissions for assistance: 337.262.1664

RESOURCES (CONT)

PASRR Level I:

- Did face-to-face training and webinars in May
- Webinar recording and slides posted to OAAS webpage/ Facility Based Programs tab
- Instructions for completing Level I Form

Link to materials:

<https://www.screencast.com/t/nTIm1pj2WYEj>

<http://ldh.la.gov/assets/docs/OAAS/PASRR/Level1-PASRR-WebinarSlides-5.14.18.pdf>

<http://ldh.la.gov/assets/docs/OAAS/PASRR/NFA-Level1-PASRR-Instructions.pdf>

FUTURE IMPROVEMENTS

- Better systems integration with OBH/PASRR 2
- Researching potential to build or procure web-based system to facilitate applications and approvals

PASRR LEVEL II — DOJ AGREEMENT

Ann Darling, Program Manager, OBH

PASRR LEVEL II REQUIREMENTS IN DOJ AGREEMENT

LDH will promptly provide a comprehensive PASRR Level II evaluation that complies with federal requirements. It shall be conducted by an evaluator independent of the proposed nursing facility and the State ... LDH shall provide additional training to ensure PASRR Level II evaluators are familiar with the complete array of home and community-based services... (Paragraph 34)

- OBH has provided training to MCO evaluators and modified the Level II evaluation forms to adhere to guidelines outlined in agreement. We are working with the MCOs on additional training needs for their evaluators.
- The following services are available to NF residents with Medicaid: inpatient psychiatric hospital services, outpatient mental health treatment (individual/group counseling), substance use treatment, psychiatric medication management, and mental health rehabilitation (MHR) services (Psychosocial Rehabilitation, Crisis Intervention, Community Psychiatric Support and Treatment, and Assertive Community Treatment)
- Information about services can be found at <http://www.lah.gov/index.cfm/page/2467>

PASRR LEVEL II REQUIREMENTS IN DOJ AGREEMENT

LDH, following approval of a Level II determination ... will initially approve nursing facility stays for no more than 90 days (or 100 days for persons approved for convalescent care by LDH) for an individual in the Target Population. (Paragraph 37)

- On June 6, 2018, OBH formally modified their approval process to be consistent with the requirements outlined within the DOJ Agreement.
- If a stay beyond this point and an extension is needed, please send the Continued Stay Request Form and required supporting documentation to the Office of Aging and Adult Services Nursing Facility Admissions Unit at (225) 389-8198 or (225) 389-8197.
- Information should be submitted at least 15 calendar days, and no earlier than 30 calendar days, prior to the expiration of the authorization.

PASRR LEVEL II REQUIREMENTS IN DOJ AGREEMENT

LDH will ensure that each individual with SMI who has been admitted to a nursing facility receives a new PASRR Level II evaluation conducted by a qualified professional independent of the nursing facility and the State annually, and upon knowledge of any significant change in the resident's physical or mental condition. (Paragraph 39)

- As of June 6, 2018, OBH PASRR Level II will be issuing one (1) year authorizations in lieu of “permanent” authorizations.
- OBH recently implemented a new form intended to streamline the Resident Review process. The form was distributed to Nursing Homes on August 29, 2018 and can be found online at <http://www.ldh.la.gov/index.cfm/page/2467>.
- This form should be included on the front of all resident review requests.

PASRR LEVEL II REQUIREMENTS IN DOJ AGREEMENT

If the State becomes aware of an individual in a nursing facility who should have received a PASRR Level II review, but did not, the individual will be referred to the Level II authority for evaluation. (Paragraph 41)

- A Level II evaluation will be requested by the MCO and a request for documentation will be submitted to Nursing Facilities.
- A determination and modified 142 will be issued by the OBH PASRR Level II Authority. The authorization will be based on the individual's needs but will not exceed one (1) year.
- If individual does not meet SMI criteria and/or if there is proof that the person has dementia as a **primary** condition, no PASRR Level II is warranted, and the authorization by the Level I Authority will stand.

PASRR LEVEL II REQUIREMENTS IN DOJ AGREEMENT

LDH shall refer all persons screened as having suspected SMI but also suspected of having a primary diagnosis of dementia, including Alzheimer's disease or a related disorder, for PASRR Level II evaluation, including those aged 65 or older. LDH shall strengthen documentation requirements used to establish the validity of a primary diagnosis of dementia, LDH shall provide additional professional evaluation to ensure appropriate diagnosis and differentiation. The evaluation shall rule out external causes of the symptoms of dementia such as overmedication and neglect. Individual with a primary diagnosis of dementia shall be provided with information regarding community-based service options, but shall not be included within the Target Population for the purpose of this agreement. (Paragraph 35)

PASRR LEVEL II REQUIREMENTS IN DOJ AGREEMENT: DEMENTIA

In anticipation of the agreement with DOJ, OBH (PASRR Level II):

- Established a contract with a psychiatrist who began reviewing all Level II requests including dementia or Alzheimer's diagnoses.
 - Upon review, it may be determined additional documentation is required to rule out differential diagnosis possibilities in applicants without a clear and well documented history of a chronic dementing illness.
- Developed guidance regarding required documentation related to the verification of a dementia or Alzheimer's diagnosis which was provided to Nursing Homes via a memorandum distributed on May 30, 2018.
 - This memorandum is entitled "Memo Clarifying Dementia Requirements for OBH PASRR Level II – May 30, 2018" and can be located at <http://www.ldh.la.gov/index.cfm/page/2467>

DOCUMENTING A DEMENTIA DIAGNOSIS

Some Highlights from the Guidance Document:

- In an effort to ensure accurate diagnosis of dementia or Alzheimer's, the referring provider should provide documentation supporting the assertion the dementia symptoms cited in the PASRR request are not due to comorbid mental illness, medication use, or another medical condition. At a minimum, this includes documentation reflecting the impact, history, and progression of the dementing illness.
- While every effort will be made to ensure less invasive and costly resources and tests are sought, these documents *may* include the following:
 1. Additional history/documentation;
 2. Neurologic consult or a complete Neurological exam conducted by a Neurologist or Psychiatrist;
 3. Labs to include CBC, Chemistry/electrolyte profiles, TSH, B12, drug levels;
 4. CT brain (non-contrasted) unless MRI warranted

VALIDATING A DEMENTIA DIAGNOSIS

PLEASE NOTE

- In terms of validating or verifying the dementia diagnosis, it is the goal of OBH to minimize the burden of this process. As such, it is not the intention to require CT scans, MRI's, or neurologist consults as a routine expectation for verifying dementia illnesses. However, this depends on the documentation provided.
 - **At a minimum**, facilities should include clear documentation reflecting the impact, history, and progression of the dementing illness. If this information is clear, comprehensive, and reasonably substantiates the dementia diagnosis while ruling out differential diagnosis possibilities, it will likely be determined that additional information is not necessary when reviewed by the PASRR-affiliated physician.
 - The specific documentation/testing may vary depending on individual circumstances, but in **all** instances less invasive and costly items will be requested first.
- **A Mini Mental Status Exam (MMSE) or Montreal Cognitive Assessment (MoCA) alone is not sufficient to verify dementia or Alzheimer's diagnoses.**

PASRR LEVEL II: ADDITIONAL NOTES

OBH PASRR Level II consistently tries to improve their ability to provide accurate and expedient determinations regarding placement and services. In order to help us ensure this occurs, please:

- Submit all information requested required to complete the Level II review in a timely manner
 - Failure to provide this information within two (2) working days will result in a delay or denial of PASRR Level II authorizations (Medicaid Form 142).
- Ensure documentation clearly describes the individual's medical, and mental health history and needs.
 - In regards to the dementing condition, it should include a description of its progression, the impact it has had on the applicant's functioning, and their ability to benefit from behavioral health treatment.
- Ensure documentation is clear and thorough in its description of the need for NF placement

PASRR LEVEL II: ADDITIONAL NOTES

- When faxing documentation to the PASRR Level II office, please be sure to include a cover sheet on all faxes, indicating the facility submitting the information, the name of the resident the documentation is referencing, a point of contact within the Nursing Facility, and correct phone/fax numbers.
- Be sure to indicate if the individual is in a location other than the Nursing Facility, providing specifics as to address and point of contact.
 - Should the individual's location change, please inform the PASRR Level II Program immediately to ensure the MCO evaluator is aware of the location of the individual.
- Be sure to utilize the Resident Review form located at <http://www.ldh.la.gov/index.cfm/page/2467>
 - When completing the form, please be sure to read and follow the instructions throughout the document.
- Note, the link above includes a variety of resources which may be beneficial to you/your staff.

CONTACT INFORMATION

- Kim Sullivan, Deputy General Counsel: Kimberly.Sullivan@LA.GOV
- Robin Wagner, Deputy Assistant Secretary, OAAS: Robin.Wagner@LA.GOV
- Ann Darling, LCSW, Program Manager, OBH: Ann.Darling@LA.GOV

Questions?