

Charles Moseley EdD
Court Monitor U.S. District Court
Rhode Island Consent Decree and Interim Settlement Agreement

May 9, 2018

Eric Beane, Secretary of Health and Human Services
RI Executive Office of Health and Human Services,
3 West Road, Cranston, RI 02920

Dear Eric,

This is to follow up on our telephone conversation on May 3, 2018 regarding the Governor's proposed 2019 budget for developmental disabilities services and related issues.

My Report on Consent Decree Compliance issued on April 6, 2018 identified two areas of concern: (a) significant funding reductions included in the Proposed FY 2019 budget for DD services and (b) the lack of sufficient personnel resources to carry out Consent Decree requirements regarding the implementation of system wide quality improvement activities.

FY 2019 Proposed Budget. The Consent Decree Compliance Report and testimony provided during the hearing before Judge John McConnell on April 10, 2018 noted that the level of financial commitment by the State for DD services in FY2018 was not maintained in the Governor's FY 2019 proposed budget of approximately \$250 million. The proposed amount represents a cut of approximately \$18.4 million as compared to current projected expenditures in FY 2018 of \$268 million. I concluded that a reduction of this magnitude seriously underfunds DD services for FY 2019 and will have a significant impact on the State's ability to comply with the Consent Decree.

I met with officials from BHDDH, DDD, ORS and EOHHS and attorneys from the U.S. Department of Justice on May 2, 2018 to continue the discussions on the budget that were not concluded during the hearing held on April 10th. The meeting had three goals. First, to gather information on the extent to which the proposed FY 2019 budget for DD services is sufficient to achieve the requirements of the Consent Decree and maintain services at current levels. Second, to determine whether the DD Division has the personnel resources available and funded to implement the quality improvement initiative as required by the Consent Decree. And third, to determine the need for further court actions in either or both of these two areas.

Director Boss did not dispute my conclusion that the FY 2019 proposed budget for DD services was insufficient to fully support the salary increases approved by the Governor in FY 2016 and FY 2017 and to continue services at current levels. Ms. Boss affirmed the Governor's commitment to fully fund Consent Decree activities during FY 2019 and stated that no rate cuts or spending reductions were being proposed. She noted that the Governor had demonstrated a history of including supplemental funding to the DD services budget when expenditures exceeded enacted amounts and would continue to do so if necessary. Ms. Boss indicated that

she could request a letter from Governor Raimondo providing assurances that the necessary revisions would be made to the proposed FY 2019 budget for DD services to ensure sufficient funding would be available to meet the requirements of the Consent Decree.

Ms. Boss's statements regarding the State's intent to fully fund services consistent with Consent Decree requirements were underscored by your comments during our telephone call on May 3rd. Based on my memory of the conversation, you stated that the State and EOHHS were fully committed to meeting the provisions and achieving the requirements of the Consent Decree and would provide the funding necessary to do so in FY 2019. You agreed that a written statement from the Governor could be provided as surety of the State's commitment to fund needed services and supports for the Consent Decree's target populations. Please let me know if you have a different understanding of our conversation.

Quality Improvement (QI). The Consent Decree Compliance Report issued on April 6, 2018 concluded that DDD's current staffing resources are inadequate to carry out QI development and oversight activities as required by the Consent Decree. This finding was reported in previous Consent Decree and ISA compliance reports. I again recommended that the State take immediate steps to increase the number of personnel assigned to conduct the QI activities described in Consent Decree §XV(1-5) by a minimum of four FTE positions.

During our meeting on May 2nd, Kerri Zanchi and Becky Boss outlined the actions that are being taken to develop a quality improvement entity within the department and division that will tasked with responsibility for fully implementing the Quality Improvement Plan that has been developed. Kerri Zanchi and Kevin Savage provided a detailed overview of the steps that the division and department are taking to build QI capacity and argued strongly that two survey positions augmented by an additional data analyst and other measures would be sufficient to meet the need and ensure compliance in this area. I asked Kerri to provide a written analysis of the staffing need and a rationale indicating how Consent Decree QI requirements will be met by only two surveyor positions along with the additional supports in the area of data analysis that were proposed. She agreed to provide this information by the end of this week.

Next Steps

Based on information and assurances provided by EOHHS, BHDDH and DDD, including the testimony of BHDDH officials during the RI Senate Finance Committee hearing held on May 3, 2018, it appears that the State: (a) recognizes that the proposed FY 2019 DD services budget is insufficient to sustain the current level of services into the next fiscal year and maintain compliance with the Consent Decree, (b) is committed to continuing to provide the supports necessary for ensuring compliance with the Consent Decree and the ISA, and (c) is committed to enhancing the FY2019 proposed budget with the additional resources needed to maintain current services and to fully fund individual supports, staff salaries, quality improvement and other activities required to address each provision of the Consent Decree.

To confirm these conclusions, I ask that the Governor provide a letter or written statement to Judge McConnell providing assurances that the FY 2019 proposed budget for developmental disabilities services will be re-set to reflect current FY 2018 expenditure and service levels and

will continue to be revised throughout FY 2019 as needed to fully fund the provision of services for individuals with IDD, consistent with Consent Decree requirements. I ask that the letter additionally provide assurances that sufficient personnel resources will be made available to the Division of Developmental Disabilities to carry out quality improvement activities consistent with Consent Decree requirements.

I appreciate having the opportunity to speak with you following my meeting with Department officials on May 2nd. I also recognize and appreciate the commitment of the State to meeting the terms and conditions of the Consent Decree and Interim Settlement Agreement.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles Moseley". The signature is fluid and cursive, with a large, stylized "C" and "M".

Charles Moseley EdD
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Cc

Judge John McConnell
Rebecca Boss, Director BHDDH
Kerri Zanchi, Director Division of Developmental Disabilities
Brian Gosselin, EOHHS Chief Strategy Officer
Tina Spears, Consent Decree Coordinator
Marc DiSisto, Attorney
Victoria Thomas, Attorney DOJ
Justin Park, Attorney DOJ
Nicole Kovite Zeitler, Attorney DOJ
Amy Romero, Attorney DOJ