

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LORETTA ROLLAND, et al,)	
Plaintiffs)	
)	
v.)	Civil Action No. 98-30208-KPN
)	
DEVAL PATRICK, et al.,)	
Defendants)	

~~JOINT PROPOSED~~ ORDER FOR THE COURT MONITOR

~~The parties jointly propose that the Court enter the following~~ Order regarding the appointment and duties of the Court Monitor.

1. The Monitor will be responsible for reviewing the services provided to all class members who reside in nursing facilities in Massachusetts and who are determined to need specialized services to determine if they comply with the federal active treatment requirements specified in the Court's orders.

2. The Monitor will conduct and complete these reviews as soon as reasonably possible but no later than April 1, 2009, pursuant to a plan that is proposed by the Monitor and approved by the Court. If the Monitor believes that the timing or frequency of the reviews should differ in some way from what the Court directed in its order dated April 10, 2007, the Monitor shall include any such proposal in the plan submitted to the Court for its review and approval. The Monitor may elect to stagger the reviews geographically or by any other reasonable criteria. The active treatment review will employ a standard protocol

developed by the Monitor, after consultation with the parties, that is designed to measure compliance with the federal active treatment requirements specified in the Court's orders.

3. The Monitor may use other reviewers, including but not limited to Department of Mental Retardation ("DMR") staff who are proposed by DMR, to assist the Monitor. The Monitor will select reviewers that he or she determines are qualified by appropriate certification or equivalent experience, will train the reviewers, and will certify the reliability of their reviews using inter-rater reliability tests. The Monitor must certify findings by other reviewers, and adopt reasonable decision making rules to ensure consistency and reliability of the conclusions of all reviewers.

4. Within thirty days of being appointed, the Monitor shall develop a detailed work plan and schedule for developing a monitoring protocol, retaining and training reviewers, and conducting reviews of the services provided to class members, as soon as reasonably possible. The Monitor shall submit the work plan to the parties for their comments, and then submit the final proposed plan to the Court for its approval.

5. The Monitor shall also communicate with and assist the parties in addressing compliance issues or in resolving disputes concerning compliance. The Monitor shall chair periodic meetings of the parties to discuss any concerns or compliance issues.

6. The Monitor shall have unrestricted access to class members, to staff that serve class members, and to class members' records and information. The defendants will make reasonable efforts to facilitate this access to the employees, staff, and records of the facilities, programs, and services that they license, regulate, fund, or operate.

7. The defendants shall provide the Monitor with a liaison from DMR who will assist in accessing necessary records and other documentation, making logistical

arrangements, and accessing DMR, UMass, and nursing facility staff, as part of the Monitor's reviews.

8. The defendants will contract with the Monitor as an independent consultant. Within thirty days of being appointed, the Monitor shall prepare a budget for the Monitor's activities and for the Office of the Monitor. The Monitor shall submit the proposed budget to the parties for their comments and then to the Court for its approval.

9. For each fiscal year in which the Monitor performs services, the Monitor will enter into a "maximum obligation" contract with the defendants consistent with the annual budget approved by the Court. The contract will represent the maximum obligation of the Commonwealth for the Office of the Monitor for that year. The Monitor will have reasonable flexibility to expend the funds provided in the contract. The parties understand that the Monitor may not expend all funds included in the contract, if she determines that either staff or expenses allowed under the contract are not needed.

10. Pursuant to the contract, the Monitor may contract with qualified reviewers to assist her in conducting the active treatment review. All reviewers shall have qualifications and experience in mental retardation or developmental disabilities services.

11. Pursuant to the contract, the Monitor and any contracted reviewers will be reimbursed for their reasonable travel and related expenses, at rates that would be considered reasonable for government employees.

12. The Monitor will be responsible for paying all of the expenses of the Office of the Monitor. She will be reimbursed for such expenses by the Commonwealth in the ordinary course, consistent with the terms of the contract and the submission of necessary vouchers and documentation to the Commonwealth.

13. If needed and included in the Monitor's annual budget, the defendants will provide the Monitor with a business office in Massachusetts, including reasonable access to supplies, telephone, computers, and equipment. The defendants will also provide the Monitor with part-time secretarial support located at her Massachusetts office. The secretary shall not be simultaneously employed for anyone affiliated with this case and shall ensure that all communications, documents, and information related to the Office of the Monitor are maintained in a confidential manner.

Defendants,

By their attorney,

MARTHA COAKLEY
Attorney General

/s/ Kenneth W. Salinger
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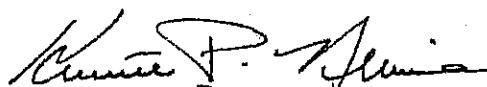
Plaintiffs,

By their attorneys,

/s/ Steven Schwartz
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May 15, 2007

So Ordered:


KENNETH P. NORMAN
MAGISTRATE JUDGE
May 16, 2007 4