

State, feds reach accord on mental-health plans

By Alan Gustafson

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The U.S. Department of Justice says it has reached agreement with Oregon officials on a yearslong strategy for reforming the state's community mental-health system, correspondence obtained by the Statesman Journal shows.

Federal officials said in a recent letter to the state Department of Justice that the agreement paves the way for changes that will "improve the lives of thousands of Oregonians living with mental illness."

If envisioned reforms materialize, that will resolve an ongoing federal investigation of Oregon's mental-health system, without legal action against the state, wrote Jonathan Smith, chief of the Special Litigation Section of the federal Justice Department, and S. Amanda Marshall, the U.S. Attorney for Oregon.

The newspaper obtained the March 13 federal letter, and a March 23 state response letter, through Oregon's public records law. The documents were released by the state Department of Justice.

As outlined in the federal letter, the Civil Rights Division of the U.S. Department of Justice, along with mental-health experts hired by the agency, will work cooperatively with the state to identify and plug gaps in the community-based system. Federal involvement in Oregon mental-health reforms could last for several years, the letter says.

"We are hopeful that our work together will address the gaps in, and improve the quality of, the community system for persons with mental illness during the coming years," it says. "It is contemplated that this process will successfully resolve our investigation once an array of essential community services are in place and positive outcomes are being achieved on agreed-upon metrics."

The community mental-health system provides services and support for tens of thousands of Oregonians, including housing, case management, crisis services, drop-in centers, job training, living skills training, peer support and more.

Mental-health advocates long have complained about inadequate state funding for

Highlights

Letters from federal and Oregon officials show they are nearing an agreement on the state's community mental-health system. Under the agreement:

1/3 Federal officials will work cooperatively with the state to identify and plug gaps in the community-based system.

1/3 Specific reforms in the community mental-health system will occur in stages during coming years, with desired outcomes spelled out in provider contracts, regulations and other documents.

1/3 A potential federal lawsuit would be avoided.

community-based services. They have argued that the state spends too much money on mental hospitals, at the expense of the community system. Such concerns have fueled intense opposition to a state plan to build a new psychiatric hospital in Junction City.

The state spends more money in total on community mental-health programs than at the state hospital. The current two-year budget for community care is \$434 million; for the state hospital it's \$339 million, although the hospital cares for about 600 patients compared to the thousands of patients in community programs.

Federal officials mentioned the funding controversy in their recent letter to the state.

"Throughout our investigation, we have met with a range of stakeholders, including consumers, advocates, providers and elected and public safety officials," it says. "We have heard a consistent message that the state must invest more in critical community based services and that investments in institutions – including the proposed hospital at Junction City – are draining resources that should be used to keep people in their homes and in the communities."

The feds vowed to "continue to meet with these stakeholders as the state implements its reform process to ensure that this agreed-upon process translates to real improvements in the lives of people with mental illness."

The behind-the-scenes agreement between the federal Justice Department and the state comes nearly six years after federal investigators, in June 2006, launched an investigation into patient care and conditions at the Oregon State Hospital in Salem.

A scathing report issued by the federal agency in January 2008 detailed a multitude of flaws at Oregon's main mental hospital. The report came as the state was gearing up to replace the outdated and unsafe institution with a new \$280 million hospital. The new state hospital complex became fully operational this month.

Amid reform-minded changes at the Salem psychiatric hospital, the federal Justice Department notified Oregon officials in 2010 that it was widening the civil rights investigation to examine state-funded community mental-health programs and services.

Key to the expanded federal inquiry is whether the state is violating provisions of the Americans with Disabilities Act by failing to provide mentally ill Oregonians with adequate community-based services.

Oregon's push to overhaul health care, led by Gov. John Kitzhaber and Oregon Health Authority Director Bruce Goldberg, "provides a unique opportunity for the state and the Civil Rights Division to work together to address our concerns by embedding reform in the design of the health care system," the federal letter says.

Under the agreement, specific reforms in the community mental health system will occur in stages during coming years, with desired outcomes spelled out in provider contracts, regulations and other documents, the letter says.

"Initially, the state has agreed to collect statewide system data on the services currently being provided and the people being served," it says. "Working with the United States and our experts, this data will be transformed into outcome measures that will be included in plan documents, contracts and regulatory materials. We contemplate working cooperatively with the state for the next several years. In this unique context, we are optimistic that the iterative process to which we have agreed will improve the lives of thousands of Oregonians living with mental illness."

In a March 23 response to the federal officials, Oregon lawyer John Dunbar, head of the Special Litigation Unit of the state Justice Department, expressed optimism about moving forward, along with some concerns.

“We agree that we have made tremendous progress,” he wrote. “We are appreciative of USDOJ’s outcome-driven approach, and we are glad to see you share our desire to avoid costly, wasteful litigation if possible.”

However, the state attorney also noted that he had “some substantive concerns” about the federal letter. For example, he said the document “appears to overstate the state’s commitments,” and he took issue with some of the reform metrics, or measurements, outlined by the feds.

“We should be able to straighten these issues out, but I wanted to make sure we were all on the same page so that misunderstandings don’t develop,” Dunbar wrote.

On Monday, two leaders of Oregon mental-health advocacy groups said they were encouraged by the accord on mental-health reforms.

“I think the overall message is that this is very encouraging and the timing is very good,” said Bob Joondeph, executive director of Disability Rights Oregon. “As in the spirit of health care reform, we’re hoping as advocates to have some input into this before it’s memorialized.

“It’s very much a breakthrough,” he added. “Interestingly enough, it’s a breakthrough that is very consistent with what Oregon is doing to reform its health care delivery system in the Medicaid world. So it may just be that the timing was right.”

Chris Bouneff, executive director of NAMI Oregon, a chapter of the National Alliance on Mental Illness, said: “It will take some time to digest the spreadsheets of measurements to draw a conclusion. At a rough first glance, the progress seems positive.”

Bouneff said he was put off, though, by Oregon’s objections to some of the reform measurements sought by the feds.

“One glaring omission on Oregon’s side is the state’s unwillingness to accept certain process measures that are widely credited with improving outcomes,” he said.

agustafs@StatesmanJournal.com, (503) 399-6709, or follow at twitter.com/agustafs1