UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

EMILY Q. et al.,	CASE NO. CV 98-4181 AHM (AJWx)
Plaintiffs,	**SEVENTH REPORT IN RESPONSE TO COURT'S ORDER APPOINTING SPECIAL MASTER, FEBRUARY 21, 2008**
v.	
DIANA BONTA,	
Defendant.	Honorable A. Howard Matz Courtroom 14

November 2010 – Emily Q. Special Master's Report

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As Special Master for the Emily Q. matter, I am pleased to provide the Court with my findings regarding progress on the Emily Q. matter, my recommendations to the Court regarding Court exit from the matter and my proposals for next steps.

Purpose of this Report

The purpose of this report is to summarize my observations specific to each of the nine points in the plan, and to provide my recommendations to the Court regarding ending Court jurisdiction over the Emily Q. matter. The Exit Plan approved by this Court and filed on April 9, 2009 states:

"Termination of Jurisdiction by December 2010"

The Special Master shall recommend that the Court terminate jurisdiction when he finds that:

- CDMH has fully implemented Points One through Eight of the Nine-Point Plan; and
- Two-thirds of the large- and medium-sized MHPs (18 MHPs) have been certified by the Special Master as having fulfilled the benchmark requirements, and have established the necessary conditions in the MHP to ensure sustained commitment to utilization, quality, performance, training and engagement."

Exit Plan for the Emily Q Case (Dkt No. 571-3), page 15.

The California Department of Mental Health (CDMH) has already summarized its activities and accomplishments over the last year in its recent report to the Court, *2010 Annual Assessment For Implementation of the Emily Q. Nine-Point Plan And County Mental Health Plan Performance* (Dkt. 609), filed October 29, 2010 (referenced below as the *CDMH 2010 Annual Assessment*). Overall, I concur with the conclusions in the report and find that CDMH has ensured implementation of Points One through Eight of the Nine-Point Plan, provided guidance and support to counties, and maintained transparency statewide. I find that CDMH has satisfied the first requirement for termination of jurisdiction in the Exit Plan.

Nonetheless, based on Therapeutic Behavioral Services (TBS) service data received from the county mental health plans (MHPs), I find that, while TBS utilization by the MHPs has increased overall, CDMH has not demonstrated that utilization has increased to the level required in the Exit To Success Order of the Court (dated April 9, 2009). Consequently, as discussed below, I have not certified the minimum of 18 MHPs required by the Exit Plan.

I also would like to acknowledge the *Emily Q*. Settlement Team for its professionalism and enduring commitment to getting the job done. The following is a list of 12 representatives who make up the Settlement Team (See Exhibit A for a complete list of participant names and titles):

- *California Department of Mental Health*: Assistant Deputy Director, Community Services Division; Chief, Program and Policy Development Branch; and Chief and Senior Counsels;
- *Department of Health Care Services*: Chief, Medi-Cal Benefits Waivers Analysis and Rates; and Senior Counsel;
- *Representing the Class*: Disability Rights Of California, Senior Counsel; and Mental Health Advocacy Services, Executive Director;
- *Department of Justice, Office of the Attorney General*: Deputy Attorney General;
- *California Mental Health Directors' Association (CMHDA)*: Mental Health Director for Sonoma County;
- *Representing the Class perspective*: A Family Partner from a TBS and Wrap Around agency who also is the parent of a child that has been in the public mental health system; and a private sector mental health practitioner who delivers TBS to children and families through county contracts.

Special Master's Response to the State's Report

In my role as Special Master to the *Emily Q*. effort, I would like to respond to the state's presentation and recommendations included in the *CDMH 2010 Annual Assessment*. In summary, I make the following observations and findings of fact: That the California Department of Mental Health and its MHPs have successfully implemented Points One through Eight of the Nine Point Plan. In this regard, I especially commend the efforts of Sean Tracy, Assistant Deputy Director of the Community Services Division, CDMH Director Dr. Stephen Mayberg, and their staff for their leadership, thoroughness, enthusiasm, engagement, and transparency in implementing the Nine-Point Plan. The CDMH team effort, in partnership with the many others involved in the rollout process, has yielded remarkable success in advancing TBS for children in the Emily Q. class and their families.

At the same time, however, and within the context of this remarkable effort, I also find that – due principally to the short period of time since the Nine-Point Plan rollout began in January 2009 – the exit criteria established in the "Exit To Success" Criteria for Performance and Termination of Jurisdiction (dated April 7, 2009) have not yet been satisfied. Although there is evidence to suggest that the state and counties may be well on their way toward meeting the Court exit criteria, I am unable at this time to certify that the benchmark criteria have been met in the minimum set of 18 medium and large MHPs as required by the exit agreement.

The following discussion summarizes my observations regarding all nine points of the plan.

Point One – Reduce Administrative Requirements

- CDMH has continued to reduce and streamline the TBS administrative requirements in order to promote increased TBS utilization since issuance of the Court Order of November 2008.
- As Special Master, I have received direct communication from MHPs and providers corroborating CDMH's sustained positive efforts to reduce the TBS administrative requirements.
- Some MHPs have retained their own pre-Nine-Point Plan administrative requirements for their own purposes, in particular pre-authorization requirements. The effect of these continued MHP requirements appears mixed, with some evidence that these MHP practices may be hindering access to TBS in these MHPs.
- CDMH and its contractor, the California Institute for Mental Health (CiMH), with strong assistance from the SuperTACT advisory group and the department's Program Compliance division, has developed a *TBS Documentation Manual* that is receiving high marks among the MHPs, both for the clarity and quality of the information and for its adoption by the division within CDMH that reviews and audits the MHPs. A national contractor in the area of Medicaid compliance recently referred to this manual as "setting the gold standard" for documentation manuals nationally. This manual has greatly influenced increased utilization of TBS in the MHPs along with class member access to TBS.

Point Two – Clarify Eligibility Requirements

- Prior to the Nine-Point Plan, local service limitations and capacity problems such as unavailability of residential or hospital placements and confusion regarding TBS eligibility, had caused unintended barriers to TBS in many MHPs. Following clarification by CDMH of the TBS eligibility requirements, local decision-making and service selection based on the clinical needs of the child (rather than on resource availability or service limitations in the MHP) has greatly improved in many MHPs, thereby opening and increasing class member access to TBS services.
- During the past six months, I have not heard reports of MHPs expressing confusion or uncertainty about the TBS eligibility requirements; instead, staff in the MHPs appear to well understand these requirements and to be making TBS decisions based on correct eligibility information. I believe that the Documentation Manual (see comments under Point Seven, below) has contributed significantly to clarifying the TBS eligibility requirements and to resolving much of the uncertainty that existed prior to the Nine-Point Plan.

Point Three– Establish an Accountability Process and Structure

- CDMH has successfully implemented the TBS accountability effort in the majority of MHPs and continues to promote efforts to permanently establish accountability in TBS planning and decision-making at the state and county levels. 54 of the 56 MHPs have substantially complied with Point Three. Two Level Two MHPs – San Joaquin and Merced – will require additional support and attention from CDMH.
- Perhaps the most remarkable aspect of the accountability effort has been the unprecedented level of transparency created by the CDMH Emily Q. Web page through its MHP Progress Report and Data Dashboard. This effort has raised the standard of accountability for the department through its strong commitment to openness and to sustained transparency into the future. I commend CDMH and its contractor APS Healthcare for their joint development of these clear, useful, accurate, responsive, and user-friendly reports.

- A central element of the accountability process has been the Data Dashboard developed by CDMH and APS in collaboration with an array of partners and participants in the Emily Q. effort. The dashboards have allowed anyone with an interest in TBS and the Emily Q. matter to review the most current quantitative data available about TBS in all 56 California MHPs. I have heard on numerous occasions that people are looking at the dashboard, understanding the information provided, and incorporating it into their efforts to promote TBS utilization.
- Similarly, nearly all of the MHPs have convened TBS accountability meetings in their county and completed the tasks identified in Point Nine of the plan. Again, I have heard numerous reports that these meetings have helped people in the counties in their efforts to increase TBS utilization.
- Family and youth participants in the statewide TBS effort are reporting strong interest in and satisfaction with the accountability effort and with the accessible and useful Web-based information available to them. As noted in various sections of the *CDMH 2010 Annual Assessment*, family and youth participation and collaboration at the state and MHP levels has reached a remarkably high level, far above any previous efforts that I have seen to engage and mobilize families and youth in any mental health initiative.
- During the past year, the California Mental Health Directors Association (CMHDA) has re-engaged with the TBS Nine-Point Plan effort by appointing a new county representative to the Settlement Team, by partnering through its Small County Committee, and by renewed participation in the SuperTACT monthly meetings. I commend both CDMH and CMHDA for their efforts to rebuild a positive relationship in TBS in spite of other on-going contractual issues between the state and the counties.
- There are, however, ongoing limitations to the accountability effort as a result of the department changing its Short-Doyle mental health services reporting system; some MHP data for 2010 are not yet available for validation or confirmation by the department and APS. This is more a reflection of larger statewide information issues than of the TBS effort, although it does directly impact the sharing and analysis of TBS utilization data in particular, and is currently limiting the department's ability to demonstrate whether or not the Level II MHPs have satisfied the exit benchmark

requirement in Point Nine. As noted later in this report, I believe these information limitations are temporary and the full picture of TBS utilization across the state will become clearer early in 2011.

- With regard to the additional data elements described in Appendix C of the Nine-Point Plan, the intention to compile, analyze, and interpret pre-post comparisons for hospitalization, RCL 12+ placements, and other mental health services received, has proved itself to be problematic as a resource in helping understand the impacts of TBS. For example, through tremendous effort CDMH and APS were able to construct an analysis of hospitalization data prior to and following TBS services that suggested significant differences following TBS; however, there were so many unknowable factors and alternative explanations for the differences – which produced a significant amount of uncertainty and raised many unanswerable questions among CDMH staff and Settlement Team members who tried to interpret these findings – that the Settlement Team decided not to include this analysis in the Web-based dashboard. There was great concern that these analyses with ambiguous findings would confuse rather than contribute to the broader discussion about TBS, so the effort was dropped in order to use APS's limited contract resources in a more productive way. With regard to pre-post RCL 12+ placement data, CDMH and the California Department of Social Services (CDSS) were able, for the first time, to combine and match data for Emily Q. class members across both departments' information systems for the years 2006-2008; however, the combined data did not reach far enough back in time to support longitudinal analysis of pre-TBS placement, so this analysis could not be completed. Consequently, this portion of the accountability plan was not completed.

<u>Point Four – Establish a TBS Best Practices Approach</u>

- Key to CDMH's successful effort with regard to best practices has been the development of its *TBS Coordination of Care and Best Practices Manual*. The inclusive and responsive process CDMH used to develop and improve this manual speaks to the strong commitment to engagement and openness with the MHPs, TBS providers, and family and youth partners. This manual, in combination with CDMH

and MHP training efforts, offers great promise in improving and maintaining the TBS effort statewide and has set a new higher standard for state leadership in promoting best practices statewide.

Point Five – Multi-Agency Coordination Strategy

- CDMH is to be commended for its effort in engaging and mobilizing family and youth as partners in the statewide TBS Nine-Point Plan effort. This remarkable effort is gaining strength in many local communities and promises to significantly and positively impact CDMH-community relations in perhaps unprecedented ways. Similarly, CDMH's efforts to promote the TBS Small County Strategy, in partnership with CMHDA, promise a sustained statewide effort.
- Nonetheless, there is a difference between these efforts and the intended purpose of Point Five: to promote coordination among the various public and private agencies that serve children in the Emily Q. class. In early 2009, CDMH convened a group representing statewide and county children's mental health, child welfare, special education, and juvenile justice to explore and propose strategies for increasing interagency collaboration statewide, and to help craft a solution to increase TBS utilization by non-mental health agencies. Quite appropriately, the *TBS Coordination of Care and Best Practices Manual* emerged as one by-product of this 2009 strategy session; however, the effort to bring together all these child-serving agencies to increase TBS access outside the traditional mental health pathway will require developing, maturing, and sustaining structural linkages and partnerships beyond the staff practice/service-delivery level addressed through the manual. As Special Master, I strongly urge CDMH to reconvene the interagency group to celebrate the successful care coordination manual and to promote its use across the range of intended agencies, and then to work towards forming long-standing coordination and partnerships among these state-level agencies. CDMH started well and developed a very good product – perhaps by reconvening and continuing the interagency coordination process additional positive products and relationships can be developed and sustained for the benefit of children in the Emily Q. class and their families. I also suggest that CMHDA be

strongly encouraged to join this coordination effort.

Point Six – Statewide TBS Training Program

- CDMH and its training contractor the California Institute for Mental Health (CiMH) have developed and started delivering an excellent and well-received TBS training program. They strongly engaged the 27 Level II MHPs in soliciting needs and opportunities for TBS training, and followed through with a very useful training product. So far, several counties have requested and received TBS training. In addition, Los Angeles County used the state training materials to create and pay for their own TBS training during the summer of 2010 when CDMH's training resources were not available due to the absence of a state 2010/11 budget. Now that the budget and training program are back on track, several other MHPs are preparing for TBS training.
- Furthermore, I have observed a new level of request for training in TBS advanced best practices, which signals MHP interest in not just basic information about TBS and the Nine-Point Plan approach, but a genuine desire to raise the scope and quality of TBS best practice among providers. This also suggests that some MHP staff and providers are approaching a tipping point in establishing and sustaining quality TBS.
- To date, nine of the 27 Level II MHPs have implemented TBS training, and several more are planning future training. Several of the Level II counties that have not implemented training had already reached the 4 percent utilization benchmark and did not feel the need for training; other MHPs reported that, due to limitations of staff time and resources, they are unable to implement TBS training at this time. It should be noted that all of the Level II MHPs report that they are using the two TBS manuals and that these are having a positive training effect on TBS delivery. I suggest continued effort by CDMH (which could greatly benefit from restored support by CMHDA) to continue to promote TBS training statewide.

Point Seven – Technical Assistance Manuals

- As noted earlier in this report, CDMH has developed and promoted two excellent

manuals – The *TBS Documentation Manual* and the *TBS Coordination of Care and Best Practices Manual*. I concur with the department's assessment of the importance and quality of these manuals and consider them to be a key element of the statewide TBS strategy. These superlative manuals set a new high standard within CDMH for the type of leadership the state is capable of providing, especially in the way these "state-owned" manuals strengthen the capacity of the MHPs and private providers to fulfill the service delivery expectations embedded in the Nine-Point Plan.

- I also commend CDMH for the process it has used to craft these manuals – engaging with an array of MHPs, TBS providers, state staff (including CDMH program compliance staff), families and youth, and non-mental health agencies that serve Emily Q. class members; soliciting and responding positively to detailed input from outside the department; doing the difficult work of revising and reworking many sections of the manuals several times to get them exactly right; and periodically reopening the review and revision process to continuously improve the quality and integrity of the manuals. CDMH staff and leadership involved in developing these manuals deserve tremendous acclaim for their hard work and success.

Point Eight – Outreach Strategy

- The key medium of TBS outreach has been the Emily Q./TBS Web page on the CDMH Web site. This effort represents the highest quality and state of the art effort in making clear, consistent, useful, and relevant information available to all who are interested in TBS. As noted in the *CDMH 2010 Annual Assessment*, the site has been visited several hundred thousand times and has received very positive reviews. Family and youth partners in the Nine-Point Plan process have been particularly positive in their reviews of the array of qualitative and quantitative information available to them via the Web page.
- As noted earlier under Point Six, I strongly urge CDMH to reconvene the state-level partnership group as another avenue for direct outreach to the array of non-mental health agencies and providers that also serve children in the Emily Q. class and their families.

Summary of Special Master's Observations on Points One Through Eight

- As Special Master, I concur with CDMH's overall assessment of their progress in successfully implementing Points One through Eight of the Nine-Point Plan. The state has done a very commendable job.
- CDMH issued Information Notice 10-20 on September 23, which requires MHPs to complete a self-certification checklist to help CDMH assess the status of MHP compliance. As of November 12, 2010, 50 of the 56 MHPs have completed this Certification Checklist Form; only one Level II MHP (Riverside County) and five Level I MHPs have not submitted the checklist. Based on the self-reported information in these checklists, Based on MHP reports received by CDMH as of November 12, 2010: 17 of the Level II MHPs have satisfied the meeting and reporting requirements in the Nine-Point plan; 8 of the Level II MHPs have nearly or partially satisfied these meeting and reporting requirements; two Level II MHPs (Merced and San Joaquin counties) have not demonstrated evidence of satisfying the requirements of the Nine-Point Plan.
- As reflected in the *2010 Annual Assessment*, the state has demonstrated strong commitment to fulfilling the requirements of Points One through Eight of the Nine-Point Plan in order to satisfy the Court exit requirements detailed in Point Nine. I strongly agree with and commend the effort put forward by CDMH to promote TBS through this multifaceted strategy.

Point Nine – Court Exit Process

- The Exit Plan requires that the Special Master certify that 18 of the large and medium sized MHPs.demonstrate that their TBS utilization meets benchmark requirements. MHPs can meet the benchmark if their claims data shows that they are providing TBS to 4% of their Medi-Cal EPSDT clients, or that they are providing services equivalent to TBS that, combined with TBS, meet the 4% benchmark, or that the Special Master certified that the MHP is on a trajectory to reach the 4% benchmark by June 2012. In addition, certification requires a finding from the Special Master that the MHPs also meet five additional criteria relating to quality, data reporting, engagement, outreach, and training. Attachment A to *CDMH Annual Assessment Plan* (Dkt 609), page 26

(CDMH Information Notice).

- Over the past four months, my consultant Steven Korosec and I have worked intensely with and made site visits to seven large and medium MHPs in order to identify TBS equivalent services in those MHPs, and to determine if those services meet the equivalency requirements developed by the Settlement Team. Additionally, we have been in conversations with other counties in preparation for a site visit for determination of TBS equivalent services. We have been extremely impressed with the quality of care, thoughtful planning of services, and the increasing focus on use of therapeutic behavioral interventions to Emily Q. class members and other at risk children and youth. In each of our site visits, which require at least one day and often two days, we have found significant evidence of TBS and TBS equivalent services.
- I have also been impressed by the various MHPs' and private providers' understanding that striving to meet or exceed the 4 percent TBS benchmark is not about reaching an artificial penetration rate, but rather is about growing and sustaining this critical service. The strategic purpose of the benchmark is to promote and encourage formation of a system to increase capacity in the areas of staff recruitment and training, and to refine skill sets of staff in the delivery of TBS and equivalent services; it also is about increasing community understanding of what TBS is and increasing the professional community's understanding of the value and impact of TBS on keeping children safe, healthy, in school, out of trouble, and at home. The Settlement Team selected the 4 percent benchmark as a strategy to motivate all the MHPs to raise their TBS capacity to a higher level – for most counties, 4 percent was double or more than their current utilization and would require deliberate effort and focused commitment to reach it, but it was not so high a mark as to be unreachable or discouraging. Looking back over the past two years, the benchmark is serving its purpose – overall TBS utilization has increased and the majority of MHPs have put forward a meaningful effort to increase and improve TBS. As a result of the 4 percent benchmark and the other eight points of the plan, California is on the verge of sustained capacity to provide high quality TBS services to children in the Emily Q. class and others who can benefit from behavioral interventions.

- Nonetheless, CDMH has not yet demonstrated that it has satisfied the central requirement of the Nine-Point Plan – that TBS utilization reach the 4 percent benchmark among at least 18 of the 27 Level II MHPs. Specifically, CDMH has not yet collected and validated TBS utilization data that demonstrates achievement of this 4 percent benchmark. CMDH has faced two primary barriers to reaching the benchmark.
- First, the relatively short period of time between implementation of the Nine-Point Plan in January, 2009 and the current date in November, 2010 is perhaps the best explanation why the benchmark has not yet been reached – the massive engagement, mobilization, development, and service reconfiguration process required to increase TBS across the majority of MHPs represents an enormous challenge at both the state and MHP levels. Ramping up to the new TBS requirements involves identifying staff and resources, changing contract terms with private providers, reconfiguring service delivery, and problem solving to increase and sustain momentum – all of this takes time, especially in the context of massive budget cuts in state and county services. Significant effort and movement has been made at all levels, which if sustained will likely produce the intended TBS utilization rate; however, the benchmark has not yet been reached in a sufficient number of Level II counties for me to certify that the Court exit requirement has been met.
- Second, the TBS benchmark process relies heavily on the statewide Short-Doyle II mental health data reporting system, which has undergone a complete transformation concurrent with the period of implementing the Nine-Point Plan. CDMH and the MHPs have nearly completed the transition to the new Short-Doyle II system, but there remain many data reliability and reporting issues that make it impossible to definitively determine how many members of the Emily Q. class have received TBS during 2010. For example, CDMH only received its first cut of the new Short-Doyle II fiscal year 2009/10 data in October of 2010 and has not had time yet to review the data, validate it, analyze and interpret what it might mean, and incorporate it into its planning and programming process – and because the state priority has been to develop budget information for the legislature to inform the state budget crisis, CDMH fiscal analysis staff have had no opportunity to fully review the TBS data. As such, validated state-

level data are not yet available to determine whether or not CDMH has met the benchmark.

- As part of its commitment not to overburden the MHPs with TBS data reporting requirements, CDMH agreed to provide the utilization data I would need as Special Master to certify MHP and state satisfaction of the benchmark. At this time, because of the Short-Doyle II transition process, CDMH does not have validated data to fully report on MHP progress toward the benchmark. To its great credit, CDMH offered the Level II MHPs the opportunity to provide their own TBS service delivery data as a way to document their TBS service delivery; however the majority of Level II MHPs have been unable to demonstrate achievement of the benchmark with either state or local data. Within the context of these data limitations, preliminary un-validated TBS data suggest that three MHPs, in addition to the five that had already reached 4 percent prior to the Nine-Point Plan, appear to be at or above 4 percent, and a number of other MHPs appear to be increasing TBS utilization to reach the benchmark in the near future. However, even under the most optimistic interpretation of the current data, at this time I cannot certify that 18 of the 27 Level II MHPs have reached or are on a trajectory to reach the benchmark.
- For its part, I believe that CDMH has done everything within its power to promote increased TBS utilization and to develop the necessary data systems to report on the benchmark. I have worked alongside CDMH to identify and work with MHPs that offer TBS-equivalent services, to document their efforts, and to add their TBS equivalent services to the count of their direct-billed TBS. In spite of this tremendous effort by CDMH, we are unable to verify that the minimum number of MHPs have met the benchmark requirement, which was agreed upon as the "tipping point" number that would indicate that TBS had been successfully implemented in a sufficient number of MHPs to ensure that TBS is firmly established and will be sustained statewide.
- Within the context of these TBS utilization data limitations, as of November 5, 2010, using the best data available from the Short-Doyle II data system, I would consider providing ***provisional 4 percent benchmark certification*** for the following eight MHPs: Contra Costa, Marin, Orange, San Francisco, Santa Barbara, Santa Clara, San Luis

Obispo, and Ventura. I would expect that data validation demonstrating success will be completed for these counties by January 31, 2011, at which time I would officially certify and notify the Director of the State Department of Mental Health that these eight MHPs have succeeded in meeting the requirements of the Nine Point Plan.

- Eight additional MHPs have indicated to the Special Master that they will have met or exceeded the 4 percent benchmark through a ***combination of TBS utilization data and TBS equivalent services by June 30, 2011***. These MHPs include San Mateo, Sonoma, Sacramento, San Diego, San Bernardino, Santa Cruz, Monterey, and Butte. I expect that several additional MHPs not listed here will also request certification by the Special Master during this same period.
- And, six MHPs have notified me that they will be requesting certification during the latter part of fiscal year 2010/11, based on a combination of TBS utilization data, determination of TBS equivalency, and/or being on a ***trajectory to reach the 4 percent TBS utilization benchmark no later than June 30, 2012***. At this time the exact number is not confirmed but the following MHPs have indicated interest in being considered: Los Angeles, Riverside, Placer/Sierra, Tulare, Merced, and Kern.
- The best data available to us and summarized above – based on the period from July 2009 through June 2010, including more recent data provided by some of the MHPs – indicates that, although the majority of Level II MHPs are optimistic and working hard to satisfy the benchmark, the proposed tipping point for TBS sustainability has not yet been reached and may not be reached for some time. For this reason I am recommending that Court jurisdiction be continued until such time as this benchmark is reached in the minimum set of 18 Level II MHPs. I will discuss my recommendations in the following section of this report.
- It is important to note that, while the parties share in the success of implementing Points One through Eight, they have not yet been able to resolve the question regarding the timing of Court exit from the Emily Q. case. I believe that both parties will respond to the findings and recommendations I have presented in this report, either in writing or in person before the Court, so I am not going to comment further here regarding their respective positions on the timing of exit.

Special Master's Recommendations Pertaining to Court Exit

In light of the observations I have summarized above, I make the following recommendations:

1. The Court shall extend jurisdiction in the Emily Q. matter for one year, until December 31, 2011.
2. If the state is able to demonstrate that it has met the 4 percent benchmark requirement as adopted in the Court's Order dated April 23, 2009, Exit Plan for the Emily Q. v Bonta case, prior to December 31, 2011, it may request that jurisdiction terminate on an earlier date.
3. The Court shall retain Richard Saletta as Special Master, with a modified scope of duties and modified budget. The Special Master will continue to file quarterly reports regarding data, progress, etc.
4. For 2011, the Special Master (and not CDMH) will continue to certify county MHPs meeting or exceeding the 4 percent benchmark and provide notice of determination of TBS equivalent services, and determine trajectory to achieve compliance by June 2012.
5. The state shall have the discretion to convene meetings regarding progress and compliance, as it deems necessary.
6. The state will continue to provide data to the Special Master and the plaintiffs regarding TBS utilization data, and other related dashboard measures.
7. The Special Master will retain authority to determine whether the state has met the exit criteria set out in court orders, including making determinations regarding equivalent services and whether counties are on a trajectory to achieve compliance by June 2012.
8. In 2011, the state will continue to undertake all the duties to which it has already committed in previous post exit court orders, other than those noted above.
9. The parties will meet in September, 2011 to review TBS utilization data, related dashboard measures and progress and discuss the Special Master's proposed findings and recommendations.
10. The Special Master shall file proposed findings of fact and make recommendations and proposed orders prior to termination of jurisdiction. This report will be filed no later than

October 1, 2011.

11. The Court shall approve the Special Master's proposed budget, Exhibit B.

Proposed dates for the next Court appearance

The Order of Appointment provided that a hearing shall be held three weeks after the filing of a Special Master's report, which will be December 13, 2010. Alternatively, the Special Master and all parties are also available for a hearing on December 14, 16, and 17, 2010.

In closing, I would like to again thank the Court for affording me the privilege of serving as Special Master for this matter. .

Dated: November 15, 2010

Respectfully Submitted

/s/

Richard Saletta, LCSW

Exhibit A: Members of the Emily Q. Settlement Team

California State Department of Mental Health

- Sean Tracy, Assistant Deputy Director, Community Services Division.
- Rita McCabe, Chief, Program and Policy Development Branch, Community Services Division.
- Cynthia Rodriguez, Chief Deputy, Legal Services.
- Barbara Zweig, Senior Staff Attorney, Legal Services.

California State Department of Health Care Services

- Dina Gonzales, Chief, Medi-Cal Benefits Waiver Analysis and Rates.
- John Krause, Senior Counsel, Legal Services.

Representing the Class

- Melinda Bird, Senior Counsel, Disability Rights of California.
- Jim Preis, Executive Director, Mental Health Advocacy Services, Inc.
- Cynthia Robbins-Roth, Parent Partner, Edgewood Center for Children, Wraparound/TBS Turning Point, San Mateo.
- Tom Sodergren, TBS Practitioner, Director of Community Services, Casa Pacifica.

California State Department of Justice, Office of the Attorney General

- Melinda Vaughan, Deputy Attorney General.

Representing Counties

- Michael Kennedy, Director of Mental Health, Sonoma County, California Mental Health Directors Association.

Exhibit B – Budget Proposal

Budget: January 1–June 30, 2011 - $38,320.00

The Special Master proposes the following budget, including travel and incidental expenses, for the last six months of FY 2010/2011. The state has requested that I budget within the fiscal year. If exit has not been attained by June 30, 2011, the Special Master anticipates submitting a final budget for July 1, 2011 to December 31, 2011.

Special Master and Consultants: January – June 30, 2011 – $32,600

The Special Master will conduct the following activities:

- Convene and oversee the Emily Q. Settlement Team (I anticipate two meetings).
- Site visits with county departments of mental health/MHPs for the purpose(s) of determination of TBS equivalency, and/or TBS trajectory and as appropriate, certification of a county/MHP attainting its 4 percent TBS benchmark. I estimate a minimum of ten site visits to counties – four southern and six central/northern California.
- Participate in meetings with CDMH, the Emily Q. plaintiffs, and other stakeholders.
- Provide technical assistance and consultation to CDMH.
- Develop and submit reports to the Court as required.
- Appear in Court as required to report progress and account for the Emily Q. effort.

Assistance and support from consultants to the Special Master

- Co-facilitate the Settlement Team meeting and prepare written summaries (I anticipate two meetings).
- Provide technical assistance to CDMH.
- Assist with TBS equivalent services county MHP site visits.
- Data analysis and interpretation.

- Assist with Court reports.

The Special Master will be reimbursed at $150.00 per hour and consultants reimbursed at $100.00 per hour.

Travel and Incidental Costs: January-June 30, 2011 – $5,000.00:

- I anticipate that Settlement Team meetings will continue to take place in Sacramento, within one hour of my office. I will not be submitting an invoice for this travel expense (I anticipate two meetings).

- I will be submitting an invoice for travel and incidental expenses associated with county MHP visits for the purposes of determination of TBS equivalency, and/or TBS trajectory, and as appropriate, certification of a county/MHP attainting it's 4 percent TBS benchmark, and any required Court appearance. At this time, I estimate air travel to Southern California four times for the Special Master and one consultant to meet with county MHPs, and for one Court appearance. Expenses will include airfare**,** parking, and – when necessary for MHP/County site visits requiring more than one day – lodging expenses.

Parent and Practitioner Settlement Team participation – $720.00

- I will continue to reimburse the parent and practitioner members' travel expenses related to attending Settlement Team meetings or ad hoc task group meetings (I anticipate two meetings). As noted in earlier reports, their employers have donated these members' time – only their travel and incidental expenses are included in this request for additional funding.
- I will be submitting an expense invoice for parent and practitioner participation with the Settlement Team.