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Press Release

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PBH Response to Support Needs Matrix Litigation

On July 5, 2011, Disability Rights of North Carolina (DRNC) filed a lawsuit against the NC Department of Health and Human Services Secretary Lanier Cansler, PBH CEO Pamela Shipman and PBH, alleging violation of due process rights through the use of the Support Needs Matrix. Legal Services of Southern Piedmont, Charlotte, NC, and the National Health Law Program, Carrboro, NC, joined DRNC, located in Raleigh, NC, in the complaint.

The lawsuit seeks to obtain class action status and include all Innovations consumers. Four consumers were named in the action. It alleges that the Support Needs Matrix violates Medicaid due process requirements, federal Medicaid requirements, and the U.S. Constitution. The plaintiffs have sought to temporarily and permanently prevent the implementation and use of the Support Needs Matrix. On Tuesday, July 12, 2011, the federal court for the Eastern District denied the plaintiffs' request to temporarily prevent the implementation and use of the Support Needs Matrix.

Due process refers to the ability of Medicaid recipients to appeal a denial or reduction of services. PBH must provide notice of this process to each person on each occasion that services are denied or reduced. PBH has not violated this Medicaid requirement as alleged in the lawsuit.

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PBH is a public authority established by the General Assembly under General Statute 122C and has been in existence since 1974. PBH is responsible for the management and oversight of services for people in need of treatment and support for mental health, intellectual and developmental disabilities, and substance abuse conditions in Cabarrus, Davidson, Rowan, Stanly, and Union counties. PBH operates Managed Care and Home and Community Based Medicaid waivers under contract with the Division of Medical Assistance in the NC Department of Health and Human Services.

The Home and Community Based Medicaid waiver, called Innovations, serves people with intellectual and developmental disabilities. This program is not an entitlement and PBH currently is authorized to serve 675 people, but there are more than 400 people currently waiting for Innovations services.

The Support Needs Matrix is a cost management tool that ties the amount of funding a person may receive for services to characteristics of the person's disabilities, adult or child status, community safety risk, the person's living situation and the level of support needed.

The level of support is measured by a standardized nationally normed evaluation tool called the Supports Intensity Scale™ (SIS). The American Association for Intellectual and Developmental Disabilities developed the SIS.

The Support Needs Matrix is the culmination of three years of research, and a year of work with a consumer/provider stakeholder group to define the final system and the implementation plan. The use of the Support Needs Matrix in the Innovations waiver has been approved by the NC Division of Medical Assistance and by the Centers for Medicare and Medicaid, the federal Medicaid agency. PBH is piloting this project for the state of North Carolina. The Support Needs Matrix has been implemented over the past year with 60 new waiver enrollees and, as of July 1, implementation began with consumers already enrolled in the Innovations waiver.

To date, there has not been a formal methodology approved for management of services for people with intellectual and developmental disabilities. Services for people with mental health and substance abuse conditions have long been managed according to diagnosis, risk assessment, and individual needs against clinical standards to establish medical necessity for services. The Support Needs Matrix is a unique tool designed for the intellectual and developmental disabilities population. The advantages of this strategy include:

1. The Support Needs Matrix identifies individuals that may be over or under served:

Medicaid regulations require that PBH, as a waiver manager, ensure that no consumers are over served and that no consumers are under served. At this time, approximately 25% of individuals served are receiving more services than they need and 75% are receiving the appropriate amount or fewer services than they need. Individuals that are receiving more services than needed will be transitioned to their appropriate level over an 18-month period. This 18-month transition period allows PBH to monitor the person and ensure that the transition is successful. Individuals that are identified as receiving fewer services than needed will be evaluated through the development of the person's Plan of Care, and will receive additional services. There is a process to identify individuals that do not fit into established categories to ensure that their needs are met.

2. The Support Needs Matrix supports PBH in ensuring the fair and consistent allocation of resources.

3. The system provides for predictability of costs, which is critical information for both PBH and the state.
4. This system can also be used to assess the needs of people waiting for services and provide information that would allow the state to plan for future expansion of the number of people served by the Innovations waiver.

The General Assembly's vision for the future of the system of services for people with mental health, intellectual/ developmental disabilities and substance abuse conditions is outlined in House Bill 916, passed this legislative session. This vision includes assuring that people receive the services they need, no more and no less. The ultimate goal is to ensure that all consumers that rely on the public system for their care have access to the services that they need. PBH is committed to the execution of this vision in our management of Medicaid waivers for the state of North Carolina.

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