

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, et al.,

Plaintiffs,

v.

EDMUND G. BROWN, JR., et al.,

Defendants.

No. 2:90-cv-0520 KJM DAD P

ORDER

Following the July 2015 judges' coordination meeting in *Armstrong*, *Plata*, and this action, the court met with the Special Master to discuss issues including those related to an apparent re-emergence of waitlists for inpatient hospital beds for *Coleman* class members. During that meeting, the Special Master brought to the court's attention matters that, in this court's view, require a status conference forthwith.

The history of the remedial phase of this litigation reflects significant time and effort spent by the court and the parties to identify and remediate substantial and longstanding problems with access to inpatient mental health care. Those efforts culminated in 2011 and 2012 with the court's approval of defendants' plans to eliminate waitlists for inpatient care and implement a sustainable process so that the waitlists would not recur. *See* ECF No. 3962 (Defs.' Plan Re: Intermediate Care Facility and Acute Inpatient Waitlists); ECF No. 4020 (Special Master's Report and Recommendations on Defs.' Plan); ECF No. 4045 (adopting in part Special Master's

1 recommendations, ordering immediate implementation of parts 2, 3 and 4 of defendants' plan,
2 and setting evidentiary hearing); ECF No. 4103 (Defs.' Supplemental Plan to Reduce or
3 Eliminate the Inpatient Waitlists); ECF No. 4131 (Order continuing evidentiary hearing); ECF
4 No. 4132 (Defs.' Report on Assessment Process and Plan Re: Sustainable Self Monitoring); ECF
5 No. 4214 (Order noting what then appeared to be "remarkable accomplishments to date in
6 addressing the problems with access to inpatient mental health care" and directing a continued
7 meet and confer process).

8 At the July 2015 meeting, the Special Master informed the court that there has been a
9 turnover of personnel in the Department of State Hospitals (DSH), whose director is a defendant
10 in this case, with many new DSH officials now responsible for *Coleman* issues. It appears from
11 the information provided by the Special Master that these officials have not taken steps to
12 familiarize themselves with the history of this litigation concerning elimination of waitlists for
13 access to inpatient mental health care.

14 It is defendants' responsibility to ensure that all individuals tasked with implementation of
15 remedial plans presented to and approved by the court are familiar and in compliance with those
16 plans and the court's orders thereon. As noted, it is unclear whether, and to what extent, DSH
17 officials with direct responsibility for *Coleman* matters have that familiarity. It is also unclear
18 whether, or to what extent, DSH has protocols in place to ensure that new personnel are made
19 aware of relevant court orders and approved plans and protocols. Finally, and most importantly,
20 it is unclear whether, and to what extent, DSH officials are following the plans approved by the
21 court in 2011 and 2012 to eliminate waitlists for inpatient mental health care and to implement a
22 sustainable process to prevent their recurrence.

23 For the foregoing reasons, IT IS HEREBY ORDERED that:

24 1. This matter is set for status conference on Wednesday, August 19, 2015 at 1:30 p.m. in
25 Courtroom # 3.

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1 2. On or before August 17, 2015 at 4:30 p.m., the parties¹ shall file a joint status report
2 which shall include the following information:

3 a. the current status of defendants' implementation of parts 2, 3, and 4 of
4 defendants' November 24, 2010 Plan to Reduce or Eliminate Intermediate Care Facility and
5 Acute Inpatient Waitlists;

6 b. the current status of defendants' implementation of their October 18, 2011
7 Supplemental Plan to Reduce or Eliminate the Inpatient Waitlists;

8 c. the current status of defendants' implementation of their December 13, 2011
9 Plan Re: Sustainable Self Monitoring;

10 d. the number of inmates on any waitlist for inpatient mental health care as of
11 August 10, 2015;

12 e. the total number of inpatient beds in each DSH and CDCR *Coleman* inpatient
13 mental health program occupied by a *Coleman* class member as of August 10, 2015; and

14 f. the total number of inpatients beds in each DSH and CDCR *Coleman* inpatient
15 mental health program not occupied by a *Coleman* class member as of August 10, 2015.

16 With respect to items 2(d), (e), and (f), if there is a waitlist and the number of beds in item
17 2(f) is greater than zero, the status report shall include an explanation as to why inmates are
18 waiting for placement when *Coleman* inpatient program beds are not occupied by *Coleman* class
19 members.

20 3. The status conference shall be attended by Pamela Ahlin, Director, Department of State
21 Hospitals, and George Maynard, Deputy Director, State Hospitals Strategic Planning &
22 Implementation, or their designees, and any other DSH official with authority over and
23 responsibility for implementation of this court's orders. These officials shall be prepared to
24 certify under oath that they have read defendants' November 24, 2010 plan and the Special
25 Master's Report and Recommendations thereon, the October 18, 2011 supplemental plan, the
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27 ¹ At this time, the court's primary concern is with the status of DSH's compliance with the plans
28 described in this order. To the extent that the CDCR defendants have information responsive to
the matters referred to in this paragraph, they shall assist in preparation of the status report.

1 December 13, 2011 plan, and the court's orders thereon. They shall also be prepared to describe
2 to the court the protocols in place to inform successors of their obligations under remedial plans
3 presented to and approved and/or ordered by this court.

4 SO ORDERED.

5 DATED: August 5, 2015.

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8 UNITED STATES DISTRICT JUDGE
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