

**Williams v. Quinn**  
**Case No. 05-4673**  
**(N.D. Ill.)**

**Annual Report**  
**to the Court**

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**January 9, 2014**

## I. Scope of Report

This represents the third annual Report to the Court regarding compliance with the Williams Consent Decree. The state is currently (as of December 31, 2013) six months into the third year of the five year compliance agreement; hence this Report will discuss the mid-year status of year three (3) requirements and also will discuss systemic issues that are germane to successful Williams implementation.

## II. Assessment of Current Status and Year-to-Date Compliance for Year Three

### A. Outreach to IMD Class Members

DHS/DMH has continued to contract with the National Alliance for the Mentally Ill of Greater Chicago (NAMI-GC) as the central organization responsible for outreach to class members. Their role continues to focus on contacting any new IMD admissions, providing updated information to interested class members, following up with any class member who had previously declined to participate, and assisting with linkage and support to class members during the transition process. The outreach workers also perform the initial pre-transition Quality of Life Survey.

The cumulative positive response rate to conducting a Resident Review (to consider community alternatives to IMD residency) is at 50%. In response to concerns that this low rate does not reflect the class member's genuine, informed decision – a concern shared by the Court Monitor and the plaintiffs' counsel – DMH has undertaken a series of actions to improve this percentage:

#### 1) Sampling Referrals

NAMI-GC staff have completed a sampling of 501 class members who have thus far refused to participate in the Williams opportunities. An initial analysis of the findings by the Court Monitor would

suggest that approximately 30% of the respondents have ambivalence or timing concerns e.g. “maybe later” or “I am thinking about it.” These findings support continued follow-up by outreach workers to ensure that the concerns of these class members are addressed and that they have full information about their options.

## 2) Williams Video

The initial Williams video was very well received. DHS/DMH is currently contracted with a consultant to develop additional videos that can be used to inform class members and other workers about the services and living opportunities available under Williams. It is anticipated that these videos will be completed by early 2014.

## 3) Community Fairs

One of the major efforts to inform class members was a series of nine (9) community fairs – all of which were hosted by existing Williams providers. Over 350 class members participated in one of these fairs – all of which were low key but very informative about the array of community resources available e.g. libraries, faith-based organizations, hospitals, etc. The response to these Community Fairs was extremely positive.

## 4) Williams Newsletter

DMH is now producing a quarterly newsletter which highlights innovative approaches by provider agencies but also features personal stories by class members. The intent is to allow class members to reflect on not only their successes but also their challenges in moving into independent housing and community-based services and supports.

The Court Monitor is pleased with the multiple efforts to improve the flow of information to class members who are hesitant to consider community alternatives. Predictably the best resources are other class members who have made the move. The remaining question is whether these varied approaches will result in additional class members agreeing to go through the Resident Review process. The Court Monitor finds defendants in general compliance in terms of outreach efforts; however, it is expected that the percentage of class members willing to be reviewed will increase by the time of the Interim Report to the Court in July 2014.

## B. Resident Reviews

Since December 2012, all of the Resident Reviews have been performed by either Lutheran Social Services of Illinois (LSSI) or Metropolitan Family Services (MFS). In accord with the Agreed Order of June 13, 2013, the defendants completed Resident Reviews on all willing class members by September 30, 2013. Of the 3,126 Resident Reviews completed by November 30, 2013, 1,625 (52%) were referred to transition. Once the Clinical Review Teams (CRTs) overturns and appeal overturns are included, this 52% improves to 59%. However, 59% represents a 5% drop from the July 2013 Court Monitor Report (64% total), which was also found to be an unacceptably high denial rate given the needs of class members. This high denial rate appears to reflect more about deficiencies in available services than the ability of class members to live in community settings.

The plaintiffs have also expressed major concerns about the state's compliance with the terms of the Consent Decree as it relates to Resident Reviews. After conducting a review of 72 files of class members not recommended for community transition, the plaintiffs found a number of reviews in which the reasons for denial were inconsistent with the terms of the Consent Decree. For example, frequently stated reasons for denial include the lack of insight into his or her illness and/or

the lack of adequate daily living skills. Such concerns ordinarily can be addressed with appropriate community services and, in accordance with the Consent Decree's provisions, should not be a reason to deny a class member the opportunity to transition from an IMD.

In response to these concerns, DMH conducted a training session with the two (2) Resident Review agencies in late October 2013. Among the points emphasized were:

- 1) Class member interest is a critical determinant in predicting transition readiness. The Resident Review needs to build on this interest.
- 2) The lack of demonstrated daily living skills will not be used as a determinant of transition readiness unless there is an inherent safety risk.
- 3) Class members' insight into their illness is likewise not a prerequisite for moving unless there are documented safety risks.

The Court Monitor is pleased that the DMH has undertaken this additional training for the Resident Review agencies – both of whom have demonstrated interest in feedback from the state and openness to improving performance. There is also an expectation that the Resident Review staff will visit all Williams providers and sit in on ACT or CST team meetings. The intent is to increase staff awareness of community capacity to deal with class members who have multiple service needs.

The Court Monitor also believes it is critical that DMH begin to conduct its own monthly sample of completed Resident Reviews. There is a major divergence of positive recommendations between the two agencies (63% vs. 43%) which does not appear to be explainable by the nature of the cases referred. It is incumbent on DMH to provide ongoing oversight and monitoring of the critical Resident Review function.

Overall, the Court Monitor finds that the state is not currently in compliance with the Resident Review requirements of the Decree. The state has completed reviews for all willing class members by September 30, 2013; however, the reasons for denial in many cases are inconsistent with the underlying Consent Decree. The DMH has undertaken a series of corrective measures – all intended to improve consistency and common understanding. The Court Monitor will continue to track these changes – with the expectation that compliance will be achieved and demonstrated by the time of the Interim Report to the Court in July 2014.

### C. Transition Coordination and Community-Based Services

DMH continues to contract with seventeen (17) local providers for Williams class members. Of these, ten (10) provide the full range of services; the other seven (7) provide a limited array of services but have been helpful in expanding the geographic access.

As of November 26, 2013, 1,795 class members (including CRT overturns and appeal overturns) have been referred to a local provider. Of these, 774 have been “offered placement” – defined as either having moved to a community-based setting or with a signed lease. It is clear that the state is well on its way to meeting the year three (3) minimum requirement of 832 persons offered placement by June 30, 2014. The minimum requirement for year three (3) – per the 40% placement threshold for class members who have not declined an evaluation – is 192 additional persons. This year three (3) number is considerably less than the year one and two benchmark of 640 persons placed by the end of year two – which the state met with 643 persons placed by June 30, 2013.

A critical component of year three (3) performance has been the understanding that, while the numbers placed might be less, the state’s ability to serve class members with complex needs would increase. Thus far, this goal has not been realized and is of growing concern. A prime example is the growing number of referrals to community providers that are not accepted under

the broad banner of “Unable to Serve.” As of November 26, 2013, this number was at 151 – and growing steadily month to month. The DMH, to its credit, has undertaken a series of discussions with Williams providers – all intended to probe the question of what it would take to safely and successfully serve these individuals. DMH has put together an initial Framework for implementation. Among the ideas being discussed is the concept of clustered apartments for class members. The intent would be to secure apartments in relative geographic proximity to each other and then to employ 24 hour staff who would be on site and available to assist higher need class members. (See Housing (II D) for more details.)

Overall, the Court Monitor does not find the state in compliance as regards transition and community services. The state has met its required targets in terms of total numbers; however the necessary intensity of services for class members with more complex needs has not yet been achieved. The net result is that there is a growing number of persons who have been found appropriate to move to the community but are continuing to languish in IMDs. Without aggressive and timely action, this number will continue to grow; correcting this problem, on top of the resident review issue as previously discussed, will place additional pressure on community systems of care.

The state has been negotiating with Pathways – a New York-based provider with a strong national reputation for providing housing and ACT services to persons with complex needs. Bringing in Pathways would be an important step to augment the state’s capacity to serve persons with more complex needs. However, it now appears that these negotiations have been stopped – for reasons that are not clear. This is highly disappointing and puts additional pressure on the state to find viable solutions. The Court Monitor is hopeful that this major compliance issue of adequate community services for willing class members will be well on its way to resolution by the time of the Interim Report to the Court in July 2014.

## D. Housing

The state has continued its strong collaborative model among the Governor's office, DMH, the Illinois Housing Development Authority (IHDA), the Corporation for Supportive Housing (CSH) and local providers. This collaborative effort continues to work at building housing capacity and access for Williams class members. One of the ongoing strategies is to provide information and build partnerships with landlords and property management firms. Specific examples from the past six months include:

- Participation in the Chicago Housing Authority Owner Symposium in October 2013 – with the chance to speak with hundreds of property owners.
- Specific training program developed and presented in June 2013 by CSH. The target was housing developers who either already have or are exploring the development of integrated housing projects.
- Open houses by local providers for potential landlords with whom to create partnerships.
- Presentation to the Housing Committee of the Chicago Metropolitan Agency for Planning in September 2013. The goal was to elicit support for the development of permanent supportive housing for persons with serious mental illness.

The housing partnership entities have also continued to pursue specific Permanent Supportive Housing (PSH) strategies. These include, as examples:

- The HUD Section 811 award of 825 new rental subsidies for persons with disabilities has now entered into the formal negotiating phase of a Contract Agreement. These subsidies will be used for Williams class members as well as others. The new timeline for availability of these subsidies is spring 2014.

- The state has secured funding via the Chicago Community Trust to hire a consultant to assist in implementation of the Olmstead Coordinated Remedial Plan. The state will assist local Public Housing Authorities regarding the utilization of HUD-approved authorization for giving housing subsidy preferences to Olmstead class members and other state rebalancing initiatives.
- IHDA has 12 new PSH developments under review for a potential of \$40 million in funding to support 336 new integrated PSH units.
- DHS/DMH has increased its Fair Market Rent (FMR) as of December 1, 2013 so as to match the Chicago Housing Authority. This will permit housing and transition staff the ability to find apartments in better neighborhoods.

In addition to the above, the Governor’s office housing staff have identified two prominent developers who have tentatively agreed to pursue the cluster apartment model as discussed in II C for those currently in the “Unable to Serve” category. This would be done as a pilot initiative for 40-50 total units in multiple buildings – with options for future expansion.

Overall, the Court Monitor finds the state in continued compliance as relates to Housing. The strong collaboration between state agencies and local providers and developers has continued. Despite delays, it now appears the successful 811 HUD subsidies will begin to add additional resources by spring 2014. The increase in FMR is a critical element in opening up more desirable neighborhoods for class members.

#### E. Quality Assurance

The Court Monitor filed a comprehensive Supplemental Report to the Court on November 8, 2013, focusing on how DMH/DHS and community providers are monitoring and working to improve the experiences of class members who have moved into the community. The Court Monitor made five (5) recommendations in that Report, all of which the DHS/DMH is reviewing and for which strategies for implementation are being developed. The Court Monitor will continue to track these

efforts and will report progress in the July 2014 Interim Report to the Court.

#### F. Decision Support/Information Technology

The July 2013 Interim Report to the Court discussed the ongoing delays in developing and analyzing the Resident Review database. There has been some progress on this issue although it is not fully resolved. On the positive side, HFS has taken on direct responsibility (as opposed to contractual) for the database. The two DHS/DMH Resident Review organizations are now entering data online. The remaining issues are two-fold: 1) the residual of nearly 1,500 Resident Reviews have still not been entered into the database and 2) DMH staff still do not have access to the critical raw data with which to do necessary analyses. DMH indicates that it has budget authority to hire temporary staff to input the remaining Resident Reviews. The issue of DMH obtaining the raw data from the HFS database is reportedly close to being resolved. The Court Monitor will track both of these issues – with the anticipation of full resolution by early 2014.

The DMH continues to maintain and utilize internal databases to track an array of Williams compliance issues. A monthly report to the Parties and the Monitor is one of the products of this database. The DMH has also developed a dashboard report – which shows critical Williams compliance metrics for DMH staff and is also used to provide performance data to Williams providers.

#### G. Budget Support

For FY 2014, the final approved DMH Williams budget is \$55.9 million – which is made up of \$35.9 million in general revenue funds and \$20 million from a special purpose fund (Fund 509). In addition, \$11.2 million was appropriated for the part of the SMHRF legislation that calls for community-based programs for triage, crisis stabilization and transitional living (see III A for discussion of program status).

As relates to the base DMH Williams budget of \$55.9 million, the Court Monitor remains confident that these appropriation levels will be fully adequate to meet all of the state's compliance requirements for year three (3).

#### H. Overall Williams Compliance

In assessing overall Williams compliance, it is important to note that year three (3) is at mid-point. However, at this point the picture is very mixed. The state has clearly met (and continues to meet) its placement requirements. The issue is not one of who is being transitioned to community settings, but rather who is not. The two key metrics (beyond placement numbers) continue to be the percentage of class members willing to be assessed and the percentage of positive community referrals for those who are assessed. The percentage of class members willing to be assessed continues to be flat at the 50% level while the net percentage of positive referrals has dropped from 64% in July 2013 to the current 59%. In both of these metrics, the state has developed (and continues to develop) plans and strategies for improvement. The real test, however, will be whether these plans can be translated into action that is both near-term and measureable. The decision to not pursue a contract with Pathways (a New York-based and nationally recognized provider organization) can only be viewed as a major disappointment and lost opportunity to promote compliance with the Decree and improve the capacity to serve individuals with complex needs. The Court Monitor believes that the next six (6) months will tell the story as to the state's willingness and ability to meet the full requirements of the Consent Decree.

#### III. Assessment of Major Organizational Issues for Williams Compliance

The Court Monitor – as with prior Reports to the Court – will continue to review systemic performance areas that are closely connected to eventual Williams compliance.

A. Development of State Policy/Practice to Offer Alternatives to Current Admissions to IMDs.

For FY 2013, the state admitted 787 persons to IMDs; this represents a modest decline of 113 persons (12.5%) from recent years' experience of approximately 900 admissions per year. However, the state still does not currently have either policies or programs in place to stop this inappropriate use of Nursing Homes for persons with serious mental illness. The Consent Decree mandates that in two and a half years the state must offer class members an appropriate community-based alternative before they can be admitted to an IMD. There is not yet sufficient progress toward a systemic approach which will fulfill this requirement of the Decree.

SB 26 appropriated \$11.2 million for the development of community programs ("comparable" to those also authorized for the re-purposed IMDs) – to include triage, crisis stabilization and transitional living. To its credit, the state has moved aggressively to solicit proposals from providers to develop these critical services. DHS/DMH has selected five (5) responses for funding which will include new crisis support services for the four (4) geographic areas of Chicago and Suburban Cook County plus an area in Central Illinois. Negotiations with the selected agencies has been completed and the contracting process has begun. The intent is to have contracts in place by February, with initial services to begin by mid-February to March 2014. The services to be funded will include: 1) crisis assessment and linkage; 2) discharge linkage and coordination of services; 3) outreach to engage individuals in service; 4) transitional living centers; 5) transitional supervised residential; and 6) crisis residential program.

The Court Monitor is very pleased with both the speed with which these proposals have been developed and the high potential for assessing and re-directing persons with SMI from unnecessary acute psychiatric hospitalizations and/or admissions to Nursing Home settings (including IMDs).

## B. State Management, Funding and Oversight of IMDs

The passage of SB 26 in 2013 included a section that creates the potential for major changes to the existing IMDs – the newly-purposed Specialized Mental Health Rehabilitation Facilities (SMHRFs). As discussed in the July 2013 Interim Report to the Court, SB 26 raises serious questions about the inherent conflict between the Consent Decree (which anticipates a diminished role for IMDs) vs. the potential for an expanded role (with the addition of potential triage and crisis units). One of the key questions is the development of the proposed rules for the new SMHRFs. The state is at the final draft stage of the document that will serve as both Proposed Final Rules and the interim Emergency Rules. The Court Monitor has reviewed these near final rules and would make the following initial comments:

- The overall proposed rules appear to be thoughtful and comprehensive.
- The proposed rules restate the critical language from SB 26 that all elements of Consent Decrees shall continue to apply and that, after the three year provisional license period, no one with mental illness shall be admitted to an IMD (SMHRF) unless that person declines community-based services. The Court Monitor would note that there appears to be a six month time differential between SB 26 three-year provisional license endpoint (presumably late 2016) and the end of the five-year Williams decree (late June 2016).
- One of the critical elements of the new proposed rules is the completion of an assessment and prior authorization by a state-designated assessment and authorization entity, for each person admitted to a SMHRF. It is unclear at this point how this critical function will be managed and who will be responsible for managing it.
- The state must (presumably) have real-time IT capacity to manage authorizations, maximal lengths of

stay, and compensation. It is as yet unclear how the state will manage this from an IT standpoint.

- The proposed comprehensive rules will require significant oversight and training by both the Department of Public Health (DPH) and DMH. This will be a major task for two (2) agencies that are already under-resourced. It is unclear as yet as to staff resources and training that will be required to adequately enforce these new rules.

Overall, the Court Monitor still believes that SB 26 moves the state in the wrong direction and is likely to undermine compliance with the Consent Decree. Nevertheless, the state has done a credible job in drafting proposed rules. Many implementation issues, however, remain to be resolved. The Court Monitor will continue to track this major change and report to the Court.

#### C. Assessment of Cross-Agency Planning

The state has continued its history in Williams of discussing issues in an open, problem-solving manner. The monthly meetings with the Parties and the Court Monitor are a prime example of identifying concerns, discussing solutions and tracking progress. The housing collaborative continues to be a model of partnership in action. The next six (6) months will be critical in building on this base of successful resolution of difficult issues.

#### D. Assessment of Leadership/Management Capacity in the Context of Overall Rebalancing

The advent of the previous DMH Director into a role of Senior Advisor to the Governor has helped greatly – both in terms of continuity on Williams issues but also in terms of overall planning for rebalancing efforts. For example, the Governor’s office is now looking at systemic issues, e.g. training and quality assurance, across the multiple rebalancing initiatives. This should help greatly to provide

synergies and more effective outcomes. The strong role of the Senior Advisor has also been critical in overseeing the rollout of SB 26 – both the proposed rules and the progression of the community crisis programs.

The interim DMH Director continues to very capably serve in her dual role as the Director of the Division of Alcoholism and Substance Abuse (DASA). The Governor and DHS continue to work toward the full and official integration of these two Divisions into one. Given the significant number of consumers with co-occurring conditions, this would seem a prudent move. It is unclear how quickly this full integration will happen.

The Governor's office has also moved to fill the vacated housing position in the Governor's office. In fact, the decision has been made to hire two (2) individuals – for a total of three (3) dedicated Housing staff. The intent is that one of these will focus on downstate issues and two in the Chicago office – with continued attention to the Williams Consent Decree.