



## Mental Health Legal Advisors Committee (MHLAC)

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The Mental Health Legal Advisors (MHLAC), an independent state agency of the Supreme Judicial Court, assists children and adults with mental health disabilities. We provide advice and legal representation on a wide range of issues. **Our intake is open Mon., Wed., & Fri. from 8:30 a.m. to 1 p.m., (617) 338-2345 x. 20.**

### MHLAC's DYS Project

MHLAC advises and represent DYS involved youth on civil legal matters. We assist youth and their families on a range of legal issues, including access to mental health care and education. We also offer trainings to advocates, parents, and youth on legal issues. Please visit our project website at

<http://www.mass.gov/mhlac/dys.html>

or contact

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### Providing Free Legal Assistance to DYS Involved Youth in Massachusetts

### New MassHealth Services Available in Massachusetts for Youth

#### *Rosie D. v. Patrick*

*Rosie D.* is a federal, class action lawsuit filed in 2001 on behalf of Medicaid-eligible children hospitalized or at risk of hospitalization. Plaintiffs sought to compel the Commonwealth to provide intensive home-based mental health services to youth under age 21 with serious emotional disturbance (SED) pursuant to the federal Medicaid Act. Under the Act's Early and Periodic Screening, Detection and Treatment (EPSDT) mandate, all states must screen eligible children, diagnose conditions found, and furnish treatment to correct or ameliorate physical and mental health issues promptly and for as long as medically necessary.

The class includes the thousands of Massachusetts children eligible for Medicaid (MassHealth) who have emotional, behavioral or psychiatric disabilities. A 2006 judicial order in the case directed that Massachusetts had to comply with the EPSDT mandate. In

2007, the district court issued a remedial plan requiring the development of intensive home and community based services for MassHealth-eligible youth. Services became available in 2009.

#### *Implementing the remedy*

Three entities ensure the implementation of the remedy: 1) a Court Monitor, which oversees the process; 2) the Executive Office of Health and Human Services (EOHHS), which has created the Children's Behavioral Health Initiative (CBHI), which implements the plan; and 3) the plaintiffs, who maintain the website <http://www.Rosied.org>.

#### *Accessing services*

*Rosie D.* services are available to youth in various public insurance programs. Youth enrolled in MassHealth Standard or CommonHealth can access all services.<sup>1</sup>

To administer their benefits, MassHealth Standard and

CommonHealth recipients, with no other private insurance, must choose either a managed care organization (MCO) or a primary care clinician (PCC). Regarding MCOs, BMC Health Net and Network Health Plan manage providers of behavioral health services directly, while MCOs Neighborhood Health Plan and Fallon Community Health Plan subcontract with Beacon Health Strategies to manage behavioral health providers. While the PCCs of persons enrolled in the PCC program are paid directly by Medicaid, any behavioral health clinicians are instead paid by the Massachusetts Behavioral Health Partnership ("Partnership"), which has its own network of providers.

Depending on what insurance plan is selected, different entities administer the behavioral health benefits. But regardless of the plan, the *Rosie D.* services and ability to access them should be the same.

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### Department of Youth Services plans for new MassHealth services

As part of implementation of the *Rosie D.* order, EOHHS agencies (the Department of Mental Health, the Department of Public Health, the Department of Children and Families, the Department of Youth Services (DYS), and the Department of Developmental Services), and the Department of Early Education and Care have developed protocols outlining how each agency will interact with the entities delivering the new MassHealth services. These protocols will address issues in-

cluding referrals, staff training, Care Planning Team participation, and dispute resolution. DYS's protocol, available in full at <http://www.rosied.org>, answers the following questions.

#### *How will DYS identify behavioral health needs of committed youths?*

DYS performs a behavioral assessment of newly committed youths in a DYS assessment unit. This comprehen-

sive examination includes a case history including home visits, meetings with the youth's family, information-gathering on trauma history, early neurological development, and educational testing to perform a risk-needs analysis for substance abuse, psychological function, offense behaviors, and other areas. DYS also uses the Child and Adolescent Needs and Strengths (CANS) – a widely utilized assessment

tool – as a standard part of the process.

#### *How will committed youths access MassHealth services?*

Youths newly committed to DYS are enrolled in MassHealth. Youths then select a Primary Care Clinician (PCC) or Managed Care Organization plan. If a youth doesn't choose, he is automatically assigned the Mass. Behavioral Health Partnership for his behavioral health services. *Cont'd*

The new *Rosie D.* services are:

1. Behavioral Health Screening;
2. Comprehensive Diagnostic Assessments;
3. Mobile Crisis Intervention (MCI);
4. In-Home Therapy;
5. Intensive Care Coordination (ICC)
6. Family Support and Training (by Family Partners)
7. In-Home Behavioral Services; and
8. Therapeutic Monitoring.

The services can be delivered in a variety of settings – home (including foster homes), school, and community. They can be provided separately or in combination. To be eligible for a service, one must meet specific medical necessity criteria.

### **Community Service Agencies**

As part of *Rosie D.* implementation, the Commonwealth contracted with 32 Community Service Agencies (CSAs) to provide wrap-around mental health services. Most CSAs cover a geographical area, while three serve specific special linguistic and cultural communities (African-American, Latino, and Deaf and Hard of Hearing). Lists of geographic and specialty CSAs are available at <http://www.masspartnership.com/provider/index.aspx?lnkID=CBHL.ascx>.

CSAs conduct comprehensive home-based assessments, provide intensive care coordination, oversee care planning teams, identify services, and, in many cases, provide home-based services. CSAs are providers in the MassHealth network and contract with the five MCOs listed above to serve Medicaid-eligible children in their geographic areas. While families may seek *Rosie D.* services through a CSA, families may access services through alternate routes as well.

### **Department of Youth Services and Rosie D.**

As the Department of Youth Services (DYS) enrolls youths in its custody in MassHealth, *DYS* involved youths should benefit from these new services if they have behavioral health issues. While *Rosie D.* services should definitely be among the services *DYS* involved youths receive once released to the community, youths may also access some services while still confined. For example, youth in staff-secure *DYS* facilities can access MCI and, as early as 180 days prior to release, *DYS* can refer a youth to ICC as part of discharge planning.

Advocates working with *DYS* involved youths should determine if a youth could be receiving *Rosie D.* services, including services through a CSA. Advocates should monitor the interplay between the *Rosie D.* providers and the traditional agencies serving youth with mental health issues: the Department of Mental Health, the Department of Children and Families, the Department of Public Health, and *DYS*. As described in the next article, there are protocols in place to explain how *Rosie D.* providers and the staff of these agencies should interact. Finally, advocates should watch how schools interface with the CSAs.■

<sup>1</sup>Youth in MassHealth Family Assistance (direct coverage) can access two *Rosie D.* services: in-home therapy and mobile crisis intervention.

### **Can *DYS* committed youths access MassHealth services while confined to *DYS* facilities?**

While youths confined in hardware secure *DYS* facilities are not eligible to receive MassHealth services, youths in staff secure *DYS* facilities are eligible. However, *DYS* clinicians remain responsible for delivering behavioral health intervention services in these staff secure facilities. One CBHI service, Mobile Crisis Intervention, will be available to youths in staff secure treatment facilities when intervention is required beyond that which the *DYS* clinician can provide, including level of care assessment.

### **How will *DYS* choose community-based behavioral health services for committed youths?**

During the *DYS* pre-release process, the *DYS* Clinician will refer to the youth's clinical assessment. The youth's *DYS* Caseworker and Clinician will determine, with the youth and parent/legal guardian, which behavioral health services to pursue. The Caseworker and Clinician should discuss the appropriateness of a referral to Intensive Care Coordination or other CBHI services. They can also make a referral to a local provider, including a Community Service Agency (CSA). While parents/guardians, who maintain legal custody, ultimately decide which services to pursue, *DYS* can mandate treatment participation as a condition of release from custody under a grant of conditional liberty.

### **Are youths in *DYS* detention eligible for these services?**

Youths in *DYS* detention facilities are enrolled in MassHealth, but are not eligible for MassHealth behavioral health services while in the detention facility. However, *DYS* will provide information to a youth and parent/guardian about accessing CBHI services once the youth is released. After release, the youth and parent/guardian make the decision about pursuing these services.

### **How will the referral process work once a youth is released?**

The referral process differs slightly by service, but there is a common procedure. After a youth is released to the community, a *DYS* Caseworker and Clinician share information about the service with the youth and parent/guardian. With consent, the *DYS* Caseworker and Clinician will support the family in seeking services, in some cases arranging a meeting with the provider.

The *DYS* Caseworker should identify and address the evolving needs of a youth living in the community under a grant of conditional liberty. These needs and related services are added to the *DYS* Service Delivery Plan as the needs emerge, and should be reviewed and revised every six months. For a youth in a community placement, the *DYS* Caseworker will identify, address, and document behavioral health needs in the youth's *DYS* Service Delivery Plan and Relapse Prevention Plan (RPP). The *DYS* Caseworker then will facilitate access to those Service Delivery Plan services.

### **How does *DYS* expect MassHealth behavioral health providers to respond to referrals of *DYS* clients when referrals are not likely to result in services being provided?**

In general, if the youth does not meet the medical necessity criteria for the service, or if the youth and family do not wish to participate, the provider should contact the *DYS* Caseworker and provide a referral to other services, if appropriate.■