

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Civ. No. 1:09-cv-00490-SS
)
 v.)
)
 STATE OF TEXAS, *et al.*,)
)
 Defendants.)

**JOINT NOTICE OF AGREED-UPON MODIFICATIONS TO MONITORING
FRAMEWORK**

TO THE HONORABLE SAM SPARKS:

Plaintiff, United States, and Defendants, State of Texas *et al.*, (“State,” and collectively “the parties”), respectfully submit this Joint Notice on Agreed-Upon Modifications to Monitoring Framework to report that: (a) they are in compliance with the Court’s Order of August 29, 2014 (ECF No. 25); (b) the restructuring of the monitoring methodology described in the parties’ Joint Motion For Postponement In, And Changes In Timing Of, Monitoring Visits (“Joint Motion,” August 26, 2014, ECF No. 23) is complete, subject to finalization of certain monitoring tools, and monitoring will resume in January 2015; and (c) the parties continue negotiations on steps that the State will undertake to strengthen services for persons moving from the State Supported Living Centers (“SSLCs”) to community settings.

In their Joint Motion, the parties sought leave to suspend the monitoring of the Settlement Agreement at the State’s thirteen State Supported Living Centers, so that the parties and the monitors could restructure the monitoring approach to focus more directly on outcomes for individuals. Joint Motion *passim*. On August 29, 2014, the Court granted the parties’ Joint Motion, ordering:

1. That the regularly scheduled six-month monitoring visits be suspended from September 2014 to December 2014, and that pilot visits could occur in November and December 2014, as determined by the monitors and parties; and
2. That the next round of monitoring visits will occur in January 2015 through August 2015.

Order (ECF No. 25).

Since filing the Joint Motion, the parties have met twice with the monitors and had extensive exchanges with them and many of their subject matter experts regarding the revised monitoring methodology and monitoring tools. The monitors are developing revised monitoring tools with this input. The tools focus on outcomes for the individuals whose rights are protected under the Settlement Agreement but allow for review of underlying processes where outcomes are uncertain, potentially problematic, or unsuitable as a basis for compliance determinations. As anticipated, the monitors and their subject matter experts are shouldering a significant burden in accomplishing this restructuring. The parties thank them for their hard work.

The monitoring going forward will be based largely on a Quality Service Review (“QSR”) approach in which the monitors and their subject matter experts comprehensively review a subset of individuals, largely to assess whether specified outcomes have been met and, if not, why. The monitors piloted this QSR process at two SSLCs in November and December of this year, and the monitors’ reviews and reports going forward will follow this methodology. The parties anticipate that this QSR approach will focus the State’s reform efforts and streamline the monitoring process. As before, the State will publish the monitors’ reports at <http://www.dads.state.tx.us/monitors/reports/index.html>.

The monitoring teams have been restructured, as envisioned by the parties. Joint Motion

3. Two monitoring teams, instead of three, are now in place. To facilitate consistent monitoring across the SSLCs, each team has responsibility for monitoring approximately one-half of the Settlement Agreement's substantive provisions and will monitor those provisions at each SSLC on a nine-month cycle, commencing January 2015 with a baseline review.

The parties continue to discuss possible steps that the State will undertake to strengthen supports for persons leaving the SSLCs to live in community settings. As a result, the monitoring tools cannot yet be finalized as to people transitioning from the SSLCs to the community and post-move monitoring. The parties expect to conclude their negotiations on strengthened community supports in time to submit to the incoming Texas Legislature any proposed Settlement Agreement changes requiring the Legislature's approval, and the parties will submit any proposed changes to this Court for its review and approval.

The parties respectfully request that the Court take note of the foregoing.

Respectfully submitted,

FOR THE UNITED STATES:

Dated: January 14, 2015

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically submitted for filing, a true and correct copy of the above and foregoing Joint Notice on Agreed-Upon Modifications to Monitoring Framework, in accordance with the Electronic Case Filing System of the Western District of Texas on this 14th day of January, 2015, which will send notification to the following:

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