Oregon

Theodore R. Kulongoski, Governor

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June 2, 2008

The Honorable Peter Courtney, Co-Chair
The Honorable Jeff Merkley, Co-Chair
State Emergency Board
900 Court St, NE
H-178 State Capitol
Salem, OR 97301-4048

RE: Oregon State Hospital – Involuntary Medications

Dear Co-Chairpersons:

NATURE OF THE REPORT

The Department of Human Services (DHS) was directed by the February 2008 Supplemental Session to return to the June 2008 State Emergency Board with a report on the Administration of Involuntary Medications.

The attached report provides information on the implementation of this program at the Oregon State Hospital.

AGENCY ACTION

The department has compiled the information as requested above. The department's report on the status is attached.

ACTION REQUESTED

The department requests that the Emergency Board acknowledge receipt of this report.

LEGISLATION AFFECTED

None.

Sincerely,

Jim Scherzinger,
Deputy Director of Finance

cc: Sheila Baker, Legislative Fiscal Office
John Britton, Legislative Fiscal Office
Eric Moore, Department of Administrative Services
Bob Nikkel, Department of Human Services

OREGON DEPARTMENT OF HUMAN SERVICES
REPORT TO THE STATE EMERGENCY BOARD
JUNE 2008

OREGON STATE HOSPITAL AND BLUE MOUNTAIN RECOVERY CENTER
INVOLUNTARY MEDICATION

INTRODUCTION

In December 2007 the Oregon State Hospital (OSH) and Blue Mountain Recovery Center (BMRC) initiated a revised process for administering significant treatment procedures including medication that the patient does not agree to take. These changes strengthened the protection of patients' rights, improved the process for informed consent, and upgraded patient education about prescribed medications. The Addictions and Mental Health Division (AMH) filed a temporary rule, secured funding, and hired staff to implement this new process. Through February 2008, OSH has had 21 final orders from contested hearings and BMRC has not had a contested hearing.

Patients now have new options before involuntary medications or significant procedures are administered. These options include: enhanced physician-to-patient consultations; medication education; legal representation; consultation with and participation of a lay advocate; and hearings conducted by an Administrative Law Judge. The improvements in patient care,

procedure modifications, staffing and contracts have been developed and managed by a committee that includes membership from key professions in the hospital in addition to representation from Oregon Advocacy Center (OAC), Department of Employment Administrative Law Judge leadership, and the Oregon Department of Justice.

The November 2007 meeting of the Ways and Means committee recommended $3.3 million to support the additional costs for this process. The February 2008 Supplemental Session added $2.1 million to the OSH Budget and placed $1.182 million in the Special Purpose Appropriation.

PROCESS UPDATE

OSH filled two Mental Health Security Technicians on March 10, 2008; an Administrative Specialist 1 was filled June 2, 2008. The Supervising Physician position currently has four applicants that are being graded; upon completion, a list will be pulled for the manager to schedule interviews. The Compliance Specialist 2 will be hired by the end of June 2008.

OSH AND OAC RELATIONSHIP

Throughout this process, OSH and OAC worked closely to develop the rules and procedures. An emergency Oregon Administrative Rule (OAR) was adopted December 1, 2007 and amended April 4, 2008. The hearing to adopt the final OAR was held June 16, 2008.

OSH has entered into a contractual agreement with OAC to provide patient advocate services during the hearings. As staff work through the processes and gain a better understanding of the needs of all parties, the care and well-being of the patients is improved. The original contract was estimated at $36 per hour; however, it has been increased to $56 per hour because Oregon statute requires that the patient advocate be a licensed attorney. This will increase costs by an estimated $16,000 for the last 16 months of the biennium.

EXPENDITURE UPDATE

As in all new processes there are always issues that arise and changes that occur as experience is gathered and information is disseminated. New tracking mechanisms for time and expenditures have been implemented. Current employees implemented the processes and provided the services for the patients and the hearings until the new positions were hired and trained. The estimated costs for this new process through February 2008 totals $134,489.

These costs are less than estimated because fewer hearings have been requested; there was a delay in hiring approved staff; and the expert medical witness testimony expense is less than assumed in the original estimate.

- The initial estimate for the number of projected hearings was based on current admissions, expiring orders, and the assumption that a certain number of patients already receiving medications would request a hearing

each month from January through May 2008. In the first four months of the program fewer patients requested hearings than had been estimated.

- The costs through February 2008 are low because of delays in hiring two of the approved staff positions and in implementing the medication educator contract. At the time of writing this report the expense data available for March, when two of the approved positions were hired, is incomplete. A third position will begin in June 2008.
- The initial estimates included $878,625 for outside medical expert testimony and additional workload. These costs are less than estimated to date.

The medication education will be provided through a personal services contract.

SUMMARY

The current rate of expenditures for the involuntary medication program is less than estimated in the request for the February 2008 Supplemental Session. This is due in part to fewer hearings than estimated and in part to delays in hiring staff and executing contracts. It is too early in this new program to determine whether there will be savings from the initial allocation of $2.1 million. However, it does not appear OSH will require the $1.2 million reserved in the Special Purpose Appropriation for this program. The 09-11 needs for this program should be about level with that which has been appropriated for this biennium.