

**Colbert v. Quinn  
Case No. 07-C4737  
(N.D. ILL.)**

**Interim Report  
to the Court**

**Dennis R. Jones, MSW, MBA  
Colbert Court Monitor  
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## I. Scope and Context of Report

On December 21, 2011, Judge Lefkow approved the Colbert v. Quinn Consent Decree (Decree). The Decree provides a clear framework and also a timetable for State Defendants to provide willing Class Members the opportunity to move from Nursing Facilities in Cook county into their own homes (with needed services) or into other non-institutional settings. The initial implementation was developed by the Defendants and was finalized on November 8, 2012. A second and amended Implementation Plan (I.P.) was finalized on August 19, 2014 – seven (7) months after the lead agency role was moved to the Illinois Department on Aging (IDoA) on January 21, 2014.

The Court Monitor filed the first Annual Report to the Court on November 27, 2013. The Court Monitor filed an Interim Report to the Court on June 3, 2014 – with a focus on compliance efforts post the move to IDoA. The second annual Report to the Court was submitted on November 25, 2014 – with recognition of the State’s progress in many areas but non-compliance as relates to Evaluations and Transitions to the Community. Given the dynamic nature of this case, the Court Monitor has chosen to provide the Court with another 6-month Interim Report to the Court – detailing progress and compliance status for the time period of November 8, 2014 through May 8, 2015. It is also important to recognize that the Defendants have proposed, and Counsel for Class Plaintiffs have agreed, on a 6-month plan to attempt to achieve greater success in transitions to the Community– the specifics of which will be discussed in this Report.

## II. Assessment of Progress and Compliance with Major Elements of the Decree for Past Six Months (November 8, 2014 to May 8, 2015)

The IDoA continues to manage its organizational efforts on Colbert through the Office of Transition and Community Relations (OTCR). The full-time dedicated staff remains at seven.

There are multiple critical components to the overall success of Colbert which will be discussed below; these include Outreach and Education, Evaluations, Transitions, Quality Management, Cost Neutral Planning and Budget Support.

## A. Outreach, Education and Referrals

The efforts to inform Class Members of their rights and opportunities under Colbert continue to be performed in a variety of ways as follows:

### 1. ADRC/ADRN

IDoA continues its contracts with Age Options, the Aging and Disability Resource Center (ADRC) for suburban Cook County and also with the City of Chicago, which operates the Aging and Disability Resource Network (ADRN) for the city of Chicago. Each of these agencies employs three Transition Engagement Specialists for Class Members. The IDoA, based on reports from ADRC/ADRN, indicate that there has been some level of outreach to 157 (84%) of the 186 Nursing Facilities in Cook County. Exhibit 1 (below) also shows that the ADRC/ADRN are generating over a third (35.4%) of the total referrals for the past six months.

The Peer Mentoring program was started in October 2014 and is now in full play with 13 peers involved. Peers are former Nursing Facility residents who have successfully transitioned. The ADRC/ADRN have utilized a peer on average of four times per week since November 2014 and report both increased Class Member interest and increased referrals when peers are involved. This is not surprising but points to the critical need to continue utilizing peers in Outreach efforts.

### 2. Other Ongoing Outreach Efforts

While the ADRC/ADRN efforts are a primary means of informing Class Members, other agencies and methods also continue. These include: 1) the Managed Care Organizations (MCOs) who are contracted to

perform Colbert evaluations (Aetna and IlliniCare) also do targeted outreach – with emphasis on Class Members who are already enrolled with them as Integrated Care Plan (ICP) members; 2) the Ombudsman program continues to inform and refer Class Members as a part of their overall duties; 3) specific information via, e.g., flyers and the Colbert Information Line are utilized to stimulate knowledge and self-referrals by Class Members and/or families.

### 3. New Strategies

The IDoA, as part of its 6-month Plan to attempt to achieve greater success, is intending to contract with four Care Coordination Units (CCUs) to provide targeted outreach and evaluation for Class Members age 60 or over. In addition, as part of an expanded Community Mental Health Center (CMHC) initiative, several CMHCs will also do their own targeted outreach for persons with Serious Mental Illness (SMI). Both of these efforts are intended to be in place by June 2015 and should add to the number of total referrals and ultimately to more transitions.

### 4. Referrals for Evaluations

The IDoA tracks actual referrals for evaluations by source (see Exhibit 1 below)

**Exhibit 1**

Colbert Referrals to Evaluation by Source	# of Referrals Prior to 9-30-14		# of Referrals from 10-1-14 to 3-31-15	
NH Staff/MDS 3.0 Q	1141	(40.4%)	358	(25.5%)
ADRC/ADRN	660	(23.4%)	498	(35.4%)
Ombudsman	361	(12.8%)	72	(5.1%)
State or Community Agency	259	(9.2%)	195	(13.9%)
Self	100	(3.5%)	93	(6.6%)
Family/Friend/Guardian	63	(2.2%)	5	(0.4%)
MCO	74	(2.6%)	166	(11.8%)
Other	169	(5.9%)	19	(1.4%)
<b>Total</b>	<b>2827</b>		<b>1406</b>	

The Court Monitor notes several things from this data:

- 1) The overall referral rate for the past six months is now approximately 235 on average. This is a positive trend compared to past periods.
- 2) The ADRC/ADRN show a growing percentage of the total referrals (35.4%) for the past six months as compared to 23.4% for prior periods.
- 3) The MCOs also showed significant improvement – with 11.8% of total versus 2.6% historically.
- 4) The mandated Nursing Facility staff requirement to do community interest reports on a quarterly basis are now only 25.5% of total referrals.

Overall, the Court Monitor continues to find State Defendants in general compliance as it pertains to Outreach, Education, and Referrals. The Peer Mentoring is proving highly effective. Targeted Outreach efforts by the ADRC, ADRN and MCOs are showing positive results in total numbers and as a percentage of total referrals. The new Outreach initiatives should likewise improve access and education for persons over 60 and those with severe mental illness (SMI). The Court Monitor commends the State's willingness to tighten agency accountability for results and to explore new outreach options.

#### B. Evaluations by Qualified Professionals

In the November 25, 2014 Court Monitor's Report to the Court, the Monitor found the Defendants out of compliance

on the area of Evaluations. The Monitor determined that, while the numeric requirements of the Decree were met (2,000 evaluations by May 8, 2014), there were significant and continuing concerns about evaluations and care plans in terms of consistency, completeness, quality and rationale for decision-making. As a result of these findings, the Court Monitor made a series of recommendations for improvement. The thrust of these three recommendations were:

1. Defendants must standardize the evaluation forms and required information (e.g., social histories and service plans of care).
2. Defendants must conduct routine audits/reviews of the Evaluations to ensure reasonable consistency and quality. These reviews should have the ability to look not only at individual Evaluations but also at targeted categories, e.g., persons not recommended for any Community-based Services.
3. Defendants must develop a process/protocol for reviewing Evaluations that do not recommend Community placement – including an independent review function with the ability to overturn unjustified negative recommendations. The Court Monitor notes that the percentage of positive Community recommendations continues to increase. The most recent six months shows a 59% positive recommendation rate. This compares to the cumulative rate of 30% positive. Hopefully, this rate will continue to go up as Evaluations improve and Community systems expand their ability to serve more complex cases.

The Defendants have accepted these recommendations and have included these tasks as a part of an Intergovernmental Agreement (IGA) with the UIC College of Nursing (UIC-CON). It is anticipated that this IGA will be fully executed by

May 2015. Per the State's 6-month Plan, the intent is to have some level of reporting on Evaluations and clinical reviews from UIC-CON by July 2015. The specifics of these Evaluation-related recommendations are further discussed in III.C.2.

The Court Monitor recognizes the State's efforts to move forward on these recommendations and also understands the inherent lag time in fully executing contracts of this scope. That said, the Court Monitor wants to re-affirm the critical and time-sensitive nature of these tasks; the quality of the Evaluation process is critical to both adequate care plans and successful transitions. The area of Evaluations will remain as non-compliant until such time as these tasks are satisfactorily addressed. The Court Monitor also wants to underscore the need for adequate State staff to oversee contractual performance in the whole area of quality management. IDoA indicates that the Quality and Compliance Liaison positions should be filled by June 2015 and will have principal responsibility for managing the UIC-CON IGA. These are essential senior positions to ensure contract accountability, production of meaningful analysis and reports, and leadership in recommending any needed policy/practice changes from the data submitted.

### C. Transition Planning and Community Placement

The Consent Decree required the placement of 300 Class Members by November 8, 2013, 800 (total) by November 8, 2014, and 1,100 (total) by May 8, 2015. The actual placements were 80 by November 8, 2013 (220 fewer than required), 507 placed on November 8, 2014 (293 fewer than required) and 767 on May 8, 2015 (333 fewer than required). The average number of placements over the past six months is 43, a slight decrease from the prior six months (45). The overall percentages of compliance levels have gone from 27% on November 8, 2013 to 70% on May 8, 2015. Despite the State's continued non-compliance in terms of

placements, the Court Monitor wants to note (below) major efforts toward attempting to achieving compliance and also note areas of remaining challenges.

1. Progress

The following represent the multiple areas in which the Defendants have made varying degrees of progress:

a. Defendants Six Month Plan to Achieve Compliance

With recognition of non-compliance in terms of placements, the State (with the concurrence of Class Plaintiffs' counsel) has developed a specific 6-month plan to attempt to achieve greater success by November 30, 2015. The plan identifies specific timelines and benchmarks in the following five areas:

- 1) Transitions – The State intends to transition a minimum of 1,100 Class Members (in the aggregate) by November 30, 2015. The major strategy is to increase monthly transitions in September-November months via the expansions of provider capacity.
- 2) Data Modeling for Housing – The IDoA will use existing data in an effort to predict the kinds of future housing that will be needed for Class Members.
- 3) Referrals – The IDoA will track and report (by source) on the planned growth in the number of referrals for June through November 2015.
- 4) Quality Assurance – The IDoA will develop and present reports on various aspects of quality assurance, e.g.,

evaluation reviews, clinical reviews. As part of an expanded emphasis on quality assurance, the IDoA has also committed to add three full-time equivalent staff – two of whom (licensed Clinical Social Worker and advanced degree nurse) will work on quality assurance activities.

- 5) **Class Member Timelines for Movement** – The IDoA will track and report on critical timeframes for Class Members during the transition process, e.g., timeframe expectation from initial referral to evaluation and from initial referral to actual placement. The IDoA will also work to ensure Class Member knowledge of timeframe expectations and who to call if a Class Member has questions.

This 6-month Plan covers many of the areas under discussion between the Court Monitor and Parties over the past several months. While the issues are not new, it represents a definitive plan toward greater success. The IDoA has agreed to provide monthly reports on progress under the Plan. There has also been discussion with the Parties about methods to incorporate this Plan with the existing annual Implementation Plan of August 2014.

b. Housing Development and Capacity

The collaboration among key State and local housing agencies continues; these include the IDoA, the Governor's Office, the Illinois Housing Development Authority (IHDA), the Housing Authority of Cook County (HACC) and the Chicago Housing Authority (CHA). There continue to be multiple housing initiatives

targeted toward the specific needs of Colbert Class Members. The following represent major examples:

- Clustered Housing – The State is in the process of finalizing an agreement with Renaissance Social Service Inc. (RSSI). Fifteen to 20 apartment units will be reserved for Colbert Class Members with significant medical and mental health needs – together with 24 hour support staff available. This new building opened in early May 2015.
- Master Leases – The state has signed two master lease agreements with property management companies on the north and south sides of Chicago. These two will provide 13 units for Class Members – with an option to expand units if needed. The master lease model is critical for Class Members with criminal and/or negative credit histories. These units will also provide accessibility for Class Members in a wheelchair or with limited mobility.
- Accessible Housing Initiative – The State’s contract with IFF (formerly known as the Illinois Facilities Fund) will provide 70 units for Class Members with physical accessibility needs. There are currently 31 Class Members who have occupied units – with six more in process. It is anticipated that all of the 79 units currently approved will be constructed and available by September 2015.
- Chicago Housing Authority (CHA) – The Chicago Housing Authority has committed 600 federally-supported housing vouchers for Colbert and Williams Class Members. There has been a limited number of Class Members to-date who have accessed these

vouchers but there is a commitment in 2015 to transfer 204 Colbert Class Members to these federal vouchers from current State-supported Bridge Subsidies.

- Housing Authority of Cook County (HACC) – The Housing Authority of Cook County (HACC) has committed 10% of its turnover vouchers to Colbert Class Members – for a current total of 120 units – of which 45 have been utilized thus far. There is a commitment for an additional 60 vouchers annually for Olmstead Class Members (total of 180 annually).
- Governor’s Office – The Governor’s Office Statewide Housing Coordinator, among other tasks, has created a newsletter that regularly informs local staff of current vacancies. This is a part of the Statewide Referral Network (SRN).
- Section 811 – Illinois has received an additional \$6.4 million from the Housing and Urban Development (HUD) competitive 811 process. These funds are on top of the \$11 million in the prior 811 award to Illinois. Actualizing these housing development funds for Class Members has been the challenge, but targeted up-front planning should provide improved outcomes in future time periods. The State’s matching units (600 from CHA and 180 from HACC) should be of more immediate use.

c. Supported Employment

The IDoA, in conjunction with the Division of Mental Health (DMH), has developed an innovative plan to provide Colbert Class Members with mental illness increased opportunity for competitive employment. The

model is called Individual Placement and Support (IPS) and has a strong reputation in Illinois and across the country. The key elements to the plan include: a) providing Colbert funds to contract for a project manager who will oversee this initiative; b) providing a strong education and outreach training effort to Class Members and staff; and c) targeting Class Members who are currently enrolled in one of the Drop-In Centers.

The Court Monitor is very supportive of this initiative. There is currently very limited knowledge or access to employment for Class Members. The national literature is clear that persons with serious mental illness can succeed in employment but need specialized supports to do so. With 767 persons now in community settings, the time is ripe to develop this critical service for interested Class Members. A model needs to be developed for Class Members with only physical disabilities. The model contains specific outcomes which will be shared in future Reports to the Court.

d. Consumer Involvement

The IDoA continues to actively involve Class Members who have transitioned to the Community. In addition to the Peer Mentoring role (see II.A.1), the Peer Advisory Council has also been a successful forum for seeking Class Member advice. This group of 10-13 Peers meets on a regular basis and is comprised of Class Members out of the three disability groups (Aging, Physical Disability and Serious Mental Illness). As a concrete example, the Peer Advisory Council recently supported the need for a Colbert Transitional Resource booklet – to include a variety of community resources (and

phone numbers) that might be of use for transitioned Class Members.

e. Trainings and Presentations

The IDoA has continued to provide a variety of trainings and presentations. Recent examples included:

- A Webinar for Nursing Facility (NF) staff about the NFs role under Colbert.
- A series of eight presentations by the Corporation for Supportive Housing (CSH) for providers regarding “Reducing the Timeframe from Referral to Transition” and “Reasonable Accommodations.”
- Presentation on Colbert at the Governor’s Conference on Aging.
- Presentation on “Guiding Older Adults and Persons with Disabilities Back into the Community” at the American Society on Aging Roundtable.

f. Quality Assurance Initiatives

The IDoA has taken steps to strengthen its overall quality assurance system. Many of these efforts are still at early stages of development. The following are some of the important areas of quality review:

- Mortality Reviews – The UIC College of Nursing (UIC-CON) is under contract to perform mortality reviews for deaths of Class Members who have moved to the Community and conduct a root cause analysis. The Court Monitor has reviewed this most recent report of 14 deaths from March 25, 2013 through December 31,

2014. Out of 473 Colbert Class Member who had transitioned during this period, this represents a mortality rate of 3%. This 3% rate compares to a 4.6% mortality rate for the Illinois Money Follows the Person (MFP) program – an initiative that also seeks to move persons from Nursing Facilities to the community. The national MFP rate is approximately 6%.

While the overall mortality rate is well within national norms, the UIC-CON staff had a series of recommendations that can improve the transition process and potentially improve health care outcomes. These include, for example, ensuring that primary care physician (PCP) visits occur within 7-10 days after transition and scheduling needed referrals to specialty providers (e.g., cardiologist, pulmonologist) prior to transition.

The IDoA staff are reviewing all recommendations – with an eye to implementing those that are considered viable.

- Incident Reports – The IDoA notes that there were 198 reportable incidents (post-transition) over the past six months. Exhibit 2 (below) reflects the types of incidents and compares the most recent six months to the prior period. Overall, there was a slight increase in total incidents for this period (4.7%).

## Exhibit 2

Type of Medical Incident	Prior Reporting Period April-Sept 2014	Current Reporting Period Oct-March 2015
Medical Hospitalization	57	63
Psych Hospitalization	27	35
Death	7	7
Behavior Incidents	14	16

As an interim step, IDoA staff are aggregating and reviewing all incidents from CMHCs and the MCOs are doing likewise for all other cases. The plan, however, is for UIC-CON to do all of these reviews once the UIC-CON contract is complete; this should be by the end of May 2015. As with mortality reviews, UIC-CON will perform root case analyses, look at trends and make systemic recommendations.

- Quality of Life Surveys – All Colbert Class Members are surveyed at periodic timeframes post-transition. This is currently done consistent with the overall protocol for MFP. The intent is to separate out the overall results for Colbert Class Members; this should be available by the next reporting period.
- Contract Performance Audits – The IDoA, as an interim step, has reviewed a sample of the evaluations completed by both MCOs. The results can be summarized as follows:

The first audit was completed in April 2015 and was specific to the adequacy/completeness of referrals to the Housing locators. The audit found that 75% of all cases reviewed had no missing data items and 93% of cases had questions answered “appropriately.”

IDoA is near completion on a second special audit of referrals to CMHC's.

- Quality Assurance Committee – The IDoA intends to create a Quality Assurance Committee during the spring of 2015. This committee will review all Quality Assurance activities and provide advice on all operational/policy changes that need to occur as a result of findings.
- UIC-CON Contract – The IDoA is very close to finalizing its overall contract (via an Intergovernmental Agreement (IGA)) with UIC-CON. There are multiple functions that are required under the IGA to include:
  - Standardization of the Evaluation instrument.
  - Routine audits/reviews of Evaluation.
  - Case reviews for Class Members at high risk.
  - Reviews and processes for Evaluations with a negative community placement finding.
  - Incident management review and reporting.
  - Continued reporting on mortality reviews.

## 2. Remaining Challenges

The Court Monitor made a series of seven recommendations in the November 25, 2014 Report to the Court. These recommendations continue to be critical and are in varying stages of implementation. None have been completed.

- a. Standardized Evaluation Forms – This task is a part of the impending IGA with the UIC-CON.

The IGA calls for UIC-CON staff to provide “consultation as necessary” regarding the standardization goal. The intent is that UIC will make specific recommendations for IDoA staff to then implement as part of its contractual process with the MCOs.

- b. Conduct Audits/Reviews of Evaluations – This is being done on an interim basis by IDoA staff (see II.C.1.f.). The intent is for this task to be routinely performed as part of the UIC-CON agreement.
- c. Process/Protocol to Review Evaluations with a Negative Community Recommendation – This is likewise one of the requirements in the UIC-CON agreement. The agreement calls for UIC-CON to review negative findings on a random sampling basis and then submit those specific samples that are deemed, in fact, appropriate for community referral to IDoA for necessary action. The intent is that IDoA (as part of the UIC-CON contract) will shape the sampling methodology to get at any trends in negative recommendations. These could be issues that are individual reviewer trends (outliers at a reviewer level) or systemic trends (e.g. refusals because of drug and alcohol abuse). The goal is to surface these issues as soon as possible so that interventions/training with the MCOs can occur and appropriate corrections and modifications can be implemented without the need for appeals.
- d. Increase the Number and Consistency of Referrals – IDoA has taken steps to deal with the referral issue: 1) It has increased accountability and oversight on this issue with the MCOs; 2) It intends to add new entities to conduct Evaluations. This will include the two

(2) agencies doing Resident Reviews under Williams with the intent to target Class Members with SMI. In addition, IDoA intends to contract with a select number of Care Coordination Units (CCUs) who will target persons over the age of 60. These additional contracts are intended to be operational by June 2015 and should add to the already increasing number of monthly referrals.

e. Expand Housing Availability for Class Members in Wheelchairs –

As noted in II.C.1.b. (Housing Development), the State has been aggressive in its efforts to grow capacity for Class Members with accessibility needs. The IFF initiative will provide 70 fully accessible units that are exclusively for Colbert Class Members. Another 55 accessible units will be open to Colbert Class Members and other persons with disabilities. In addition, IDoA is actively engaged in several other agreements that will provide accessible units. The amount of effort in this area is impressive.

f. Explore Strategies to Engage and Place Older Adults – The IDoA is nearing completion of contracts with four (4) Care Coordination Units (CCUs) in the Chicago area. These CCUs (with a history of working with people over the age of 60) will provide outreach to targeted Class Members over 60, conduct evaluations, develop service plans and provide post-transition monitoring. This will not only help increase referral numbers but, more importantly, provide targeted outreach to older adults.

g. Develop Capacity to Track, Analyze and Manage Incidents – The IGA with UIC-CON

(as discussed throughout) should provide the core capacity to carry out this recommendation. In addition, the IDoA is looking to employ as soon as possible an advanced degree nurse and a licensed social worker.

The Court Monitor is pleased with the overall direction of these efforts. The only issues are twofold: 1) It is unclear how quickly UIC-CON will be able to develop its own staffing capacity to meet the multiple demands of its contracts; and 2) It is critical that the overall quality assurance system be described in writing – reflecting how the multiple parts will work interactively to continuously inform and improve the community system.

#### D. Budget

The Illinois legislature approved the full funding request of \$32.5 million for FY 2015 Colbert expenses. The across the board cuts for FY 2015 were 2.5% - resulting in a net spending level of \$31.765 million. This level of reductions should not impact compliance efforts. For FY 2016, the IDoA introduced budget for Colbert continues at \$32.5 million. The new Governor – even with daunting budgetary concerns – has taken a position of supporting needed Consent Decree requirements. The final negotiated budget remains to be determined.

#### E. Cost Neutral Planning

The Colbert Decree calls for the Cost Neutral Plan to be agreed upon by the Monitor and the Parties by the 30<sup>th</sup> month after the finalization of the Implementation Plan; the 30<sup>th</sup> month mark was May 8, 2015. If an agreement by the Parties was not reached by the 30<sup>th</sup> month mark, the Decree called for independent submissions by the Parties by June 8, 2015.

At this juncture, the Court Monitor and the Parties have continued to meet regarding the framework for the Cost Neutral Plan – with substantive agreement to-date on the methodology and the relevant data system. This effort continues to be very capably supported by the pro bono efforts of the Berkeley Research Group (BRG) consulting firm. The major issue continues to be two-fold: 1) the significant delays that occurred in the first 18 months resulting in an insufficient number of placements – 333 fewer than required as of May 8, 2015, to create sufficient data to create a cost neutral plan, and 2) the inherent lag time (5-6 months) between the date a Medicaid service is delivered and when bills are fully accrued, inputted and paid. These two factors have resulted in significantly fewer community placements with 12 or more months of Community expenses than was anticipated as necessary by the Decree. BRG, the Court Monitor and Parties have determined that it is highly unlikely that there will be sufficient data to create a cost neutral plan until 2016.

#### F. Overall Compliance

The Court Monitor continues to find Defendants in compliance in terms of Outreach. As relates to Evaluation by Qualified Professionals, the Court Monitor finds that the State has taken critical steps toward resolving the Evaluation issues regarding quality and comprehensiveness (as identified in the November 25, 2014 Report to the Court). While some of these efforts are already occurring at a staff level, the thrust of compliance is dependent upon the full implementation of the UIC-CON contract. Hence, the Court Monitor, while encouraged with the progress, cannot yet find compliance on Evaluations. Hopefully, the next six months will result in a reasonably comprehensive quality management system.

In terms of Community Transitions, the State continues to lag significantly behind Decree requirements – with 333 fewer placements than required as of May 8, 2015. This deficiency has caused a delay in preparation of a cost neutral

plan. However, the State has put together an aggressive set of strategies to attempt to reach the 1,100 placement mark by the end of November 2015. The 6-month Plan has been reviewed and supported by Plaintiffs' counsel and the Court Monitor. This Plan represents an important and measurable pathway toward reaching sufficient transitions to allow a cost neutral plan to be developed in 2016.

#### G. Recommendations

The Court Monitor does not wish to make any additional recommendations at this point. The critical task at hand is framed by the new Plan. The previous seven recommendations by the Court Monitor are supported by the Plan and are each being duly addressed.