

**Colbert v. Quinn**  
**Case No. 07-C-4737**  
**(N.D. ILL.)**

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

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## **I. Scope of Report**

On December 21, 2011, Judge Lefkow approved the Colbert v. Quinn Consent Decree (Decree). The Decree provides both a framework and a timetable for the State Defendants to allow willing Class Members the opportunity to relocate and receive services in their own homes or in other non-institutional settings. The initial Implementation Plan, as developed by the Defendants, was finalized on November 8, 2012.

The Court Monitor filed the first Annual Report to the Court on November 27, 2013. Per agreement with Judge Lefkow and counsel for the State Defendants and Class Members, the Court Monitor filed an Interim Report to the Court on June 3, 2014. The Interim Report focused largely on compliance efforts after the lead agency role for implementing the Decree was moved to the Illinois Department on Aging (IDoA) on January 21, 2014. The second Annual Report to the Court will highlight those efforts and discuss Decree compliance since May 8, 2014 – with recognition that an amended Implementation Plan (I.P.) was adopted as of August 19, 2014. Based on findings set out here, the Court Monitor will make additional recommendations toward progress and compliance with the Decree.

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

The IDoA established the Office of Transition and Community Relations (OTCR) as the organizational unit charged with planning for and implementing the requirements of the Decree. The dedicated Colbert staff in the OTCR has now grown to seven persons, including the Director, Project Assistant, Transition and Research Administrator, Outreach and Technical Assistance Specialist, Quality Control Liaison, Housing and Transition Liaison and an Information Systems Analyst.

The critical component functions of Outreach and Education, Evaluations, Transitions, Cost Neutral Planning and Administrative Oversight will be reviewed in the sections below.

<sup>1</sup> Capitalized terms used in this Report have the same meaning as set forth in the Decree

### A. Outreach, Education and Referrals

The Defendants continue to use a multi-pronged approach to reach Class Members and to try to provide them with basic knowledge of the Decree and facilitate the process of referrals for those who are interested in potential Community placement as follows:

1. ADRC/ADRN – The IDoA has renewed and expanded its contracts with both Age Options, the Aging and Disability Resource Center (ADRC) for suburban Cook County and the City of Chicago, which operates the Aging and Disability Resource Network (ADRN) for the City of Chicago. The IDoA has agreed to fund one additional Transitional Engagement Specialist – resulting in a total of three Engagement Specialists for Age Options and also one additional for the City of Chicago (total of two). The ADRC/ADRN agencies are charged with visiting each Colbert Nursing Facility in Cook County at least once during the next year.

One of the critical new additions is the Peer Mentoring Program. Peer Mentors are Class Members who have successfully transitioned and are willing to share their firsthand experience with others. Peer Mentors will accompany the ADRC and ADRN staff as they perform individual and group meetings at the Nursing Facilities. The initial target of 10-12 Peer Mentors will be trained prior to the beginning of their efforts in November 2014. Peer Mentors will be reimbursed with a small stipend. The Court Monitor views this as a vital addition to the current outreach program.

2. Outreach Materials and Points of Contact

The following are enhanced efforts to provide both written materials and targeted assistance for Class Members and others, e.g., families:

- Enhanced flyers and fact sheets for both general knowledge, e.g., “The Colbert Fact Sheet” and specific information e.g. “Things You Should Know.”
- Colbert Email Account – a new Colbert-specific email account to ask questions via a Colbert Technical Advisor.
- Colbert Information Line – a new Colbert Information Line began September 18, 2014, staffed as a part of the IDoA Senior Help Line. Help Line staff have received specialized training regarding Colbert.
- IDoA Webpage – the new webpage for IDoA now includes links to Colbert materials, e.g., the Decree and the I.P.

### 3. Ombudsman

The pre-existing and mandated Ombudsman program continues to inform Class Members about their rights under the Decree and to assist with referrals.

### 4. MCO Targeting

In addition to the MCO role in conducting evaluations and performing care coordination, the two MCOs (Aetna and Illinicare) have also been charged with doing targeted outreach to 59 Nursing Facilities during the next year. This specific targeting was a successful means previously in generating interest and referrals. These 59 facilities are in addition to the 61 Nursing Facilities previously targeted.

### 5. Referrals to Evaluation

Since February 2013, there have been a total of 2,827 referrals – per department of Healthcare and Family Services data. Table 1 (below) shows referrals by source.

Table 1

<b>Colbert Referrals to Evaluation by Source</b>	
<b>Source</b>	<b># of Referrals</b>
NH Staff/MDS 3.0 Q	1141
ADRC/ADRN	660
Ombudsman	361
State or Community Agency	259
Self	100
Family/Friend/Guardian	63
MCO	74
Other	169
<b>Total</b>	<b>2827</b>

It is noteworthy that – while Nursing Facilities are mandated (on a quarterly basis) to provide each Nursing Facility resident the opportunity to be referred to Community Services – this source of referrals was only 41% of the total. This fact underscores the importance of targeted outreach via the ADRC/ADRN, Ombudsman and the MCOs directly.

Overall, the Court Monitor continues to find State Defendants in general compliance as it relates to Outreach, Education and Referral even though the flow of referrals for Evaluations, Service Plans and Housing remains inconsistent. It is encouraging that the Peer Mentor program is set to begin. All of the methods outlined above must be fully implemented – with special focus on the efforts of the ADRC/ADRN and the targeted efforts by the MCOs so that the flow of Class Members is consistent for evaluation, Service Plans and Housing. The data is clear and compelling that on-site visits by outside entities provide education, interest and referrals that would otherwise not occur.

## B. Evaluations by Qualified Professionals

Aetna and Illinicare continue to be the contracted entities to do all of the Decree Evaluations; these Colbert-designated teams have been operating since February 2013. Under the terms of the Decree, 500 Evaluations were to be completed by May 8, 2013 and 2,000 by May 8, 2014. As noted in the June 3, 2014 Court Monitor's Interim Report to the Court, the State had documented that 2,444 Evaluations had been completed by April 30, 2014. However, over 800 of these Evaluations were required to be done again due to serious concerns about the quality and comprehensiveness of the original Evaluations (as discussed in the Court Monitor's first Annual Report to the Court on November 27, 2013).

The Defendants completed these re-Evaluations by the end of July 2014, utilizing the revised Evaluation tools as developed by Aetna and Illinicare. The Court Monitor recently reviewed 30 of the Evaluations/re-Evaluations conducted since the revised Evaluation format was put into place in March 2014. The results point to significant continued concerns about the Evaluations in terms of completeness, quality, and rationale for decision-making. These negative findings are especially true for one of the MCOs – with significant gaps in a meaningful social history and a Service Plan of Care, i.e., no clarity as to an overall picture of the Class Member and the ultimate recommendations about transition (or non-transition). On the opposite end, the forms and narrative information by the other MCO generally presented a good level of coherence, completeness, plans of care and rationale for the team decision.

In addition to these concerns, the Court Monitor is also concerned about the low percentage (30%) of the cumulative total 2,827 Class Members who have been evaluated and recommended for Community placement. This is lower than anticipated and calls for further analysis. It should be noted, however, that a recent three month review had a 53% positive recommendation for transition.

Of those recommended (849), fully 198 (23%) are not recommended to receive any specialized services other than housing; this is also a strikingly high percentage given that Class Members are coming from and previously recommended as needing 24 hour care settings. While premature to form definitive conclusions, we must understand the reasons.

Based on this review of evaluations, the Court Monitor does not find Defendants in compliance as relates to Evaluations. The following recommendations are offered:

- 1) Defendants must standardize the forms and required information (e.g., social histories and service plans of care). The currently disparate formats are unnecessary and unworkable at this stage of the process.
- 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 Services.
- 3) Defendants must develop a process/protocol for reviewing Evaluations with a negative (not recommended for Community placement) recommendation. The Court Monitor noted multiple instances in which it was totally unclear as to why a Class Member was not recommended. The Defendants need to have an independent review process with the ability to question (and overturn) a negative recommendation that is not justified. The new I.P. calls for the MCO to identify what services cannot be provided in any Community-Based Setting when an interested Class Member is not recommended. This is not now happening.

### C. Transition Planning and Community Placement

The Decree required the placement of 300 Class Members by November 8, 2013 and an additional 500 (800 total) by November 8, 2014. The actual placements were 80 on November 8, 2013 (220 fewer than required, and 27% of required), and 507 placed on November 8, 2014 (293 fewer than required, and 63% of required). The average monthly placement over the past six months has been 45; for the past three full months (August-October 2014) it has been 47. While the Defendants' efforts to make up the major placement deficits from Year One have not been successful, it is nevertheless noteworthy that if the most recent 90 days were extrapolated over a year, it would be a total of 564.

#### 1. Progress

The Court Monitor notes concerted placement efforts and progress on multiple fronts:

##### a. Full Implementation of Williams SMI Model.

The use of the Williams model for Colbert Class Members with a Serious Mental Illness (SMI) has proven to be a successful strategy<sup>2</sup>. Each of the 10 community mental health centers (CMHCs) in Cook County are performing a range of services including transition, housing location and placement, mental health services and quality monitoring. While the CMHCs are not meeting placement targets, it is nevertheless the right structure for nearly 50% of overall Colbert placements.

<sup>2</sup>The other Olmstead nursing home case (Williams) utilizes specific providers to provide a broad range of services, housing supports and quality management for persons with serious mental illness.

b. Improved Communication

The regular teleconferences with IDoA staff, MCOs, Care Coordinators, Housing Specialists and CMHCs have helped to facilitate communication and sharpen expectations. In addition, the Colbert Project Director and IDoA staff have regular in-person and teleconference contact with CMHC Directors, the MCOs and Housing Specialists. Clearly, communication, role definition, and accountability have improved.

c. New Implementation Plan

The IDoA leadership put major energy into developing the new I.P. as submitted to the Court on August 20, 2014. This document, while retaining some elements of the original plan, is clearly different in terms of its conceptual framework, clarity of roles, and specificity of tasks and timelines. This was a major leadership and staff effort over several months.

d. New Tracking System

The IDoA has developed and put in place an entirely new data system called the Colbert Tracking System (CTS). This new system, after months of development, testing and training, went live on October 20, 2014. The new system will (for the first time) track Class Members from the initial referral through the transition process. This data will also permit timely analysis and decision-making.

e. Consumer Involvement

The IDoA has implemented several strategies to hear Class Members and other key stakeholder feedback on a regular basis. In addition to the focus groups (as described in the June 3, 2014 Interim Report to the Court), the IDoA has moved forward with an ongoing Peer Advisory Council – made up of 12-15 Class Members who have already moved or are interested in transitioning. This newly-constituted Council had a very successful first meeting in September 2014.

f. Training

The IDoA has provided targeted trainings to numerous providers, staff and others over the past six months. These trainings have ranged from detailed training on how to avoid failed housing inspections to a Decree overview to the Illinois Council on Aging.

These training examples are among the highlights of the multiple efforts to develop and improve common understanding and sustained placement progress.

g. Housing Development and Capacity

The Defendants continue to work collaboratively with IDoA, the Governor's office, the Illinois Housing Development Authority (IHDA), the Housing Authority of Cook County (HACC) and the Chicago Housing Authority (CHA) to meet critical housing needs of Class Members. Among the multiple collaborations and new initiatives, the following represent examples of promising possibilities:

- Clustered Housing Model – This model can allow for Class Members to live in relative proximity to each other and receive more intensive site-based services. IDoA is exploring two potential options – one of which would also provide wheelchair accessible units.
- Master Lease Options – The Master Lease Option can help resolve the problem of Class Members with a criminal record or bad credit/evictions. One small project in Logan Square is currently being reviewed.
- Home First Illinois – As mentioned in Section IIIC2b of this Report, Home First Illinois is specifically working to create wheelchair accessible units – with 70 already in play for Colbert and another 55 units coming on line in 2015 for various disabilities.
- Federal 811 HUD Project – Illinois has finalized its agreement with HUD, which will provide an additional \$11 million in housing funds for the various Olmstead Consent Decrees. It is unclear as to how many (and when) units will be available for Class Members; nevertheless over time, this resource should add to the overall resource pool.

It should be noted – as relates to overall housing development collaboration – that State officials are conducting a high-level retreat in early December 2014. The Technical Assistance Collaborative (TAC) out of Massachusetts will provide consultation toward the goal of maximizing housing resources for all the Consent Decrees intended to give people with disabilities the opportunities to

move out of institutions and into  
Community-Based Settings.

## 2. Remaining Barriers

Despite these major efforts, there remain multiple systemic issues that will require resolution over the next six months and beyond:

### a. Increase Referrals

Increase the number and consistency of referrals to Housing Specialists and CMHCs. The consistent message from contractors has been the need to increase the number of referrals on a month-to-month basis and for those referrals to be consistent to allow for adequate and appropriate budgeting and staffing levels. One of the keys to this effort is to ensure that MCOs are generating the required number of referrals (and subsequent Evaluations) per month.

### b. Housing for Class Members Who Use Wheelchairs

Improve the availability and timely placement of Class Members who use wheelchairs. This is a significant issue that will require a concerted effort in developing, locating and accessing wheelchair-accessible units for Class Members. Among the more promising efforts are the 70 wheelchair-accessible living units purchased and rehabbed by Home First Illinois (HFI) for Class Members. In addition, HFI is developing an additional 55 units for persons with disabilities – potentially including Class Members. As an administrative strategy, the Court Monitor would encourage a separate placement accountability track for Class

Members who use wheelchairs– with consideration for some form of incentive payment for successful placements.

c. Expand Services for Older Adults

Explore methods to improve the transition of Class Members over the age of 60. According to current data, only 5% of Class Members transitioned were over the age of 65. While this percentage might rise slightly if the threshold were age 60, nevertheless it is clear that the Colbert program is struggling to engage and place older adults. The State has recently proposed a pilot initiative that would utilize the existing aging network of Care Coordination Units (CCUs) to target new Nursing Facility admissions who are at-risk of becoming longer-term stays. This particular proposal raises basic questions as to whether it meets the core intent of the Decree (i.e., placing Class Members who would otherwise not be transitioned).

Nevertheless, it does bring forward the potential role of the CCUs for the 60+ age group who are in Nursing Facilities. For example, there are 6,710 Class Members between the age of 60 and 70. The CCUs have the potential to do enhanced Evaluations for this elderly population as well as develop Service Plans of Care that are informed by working with this older adult population. The State, if this model were developed, would need to ensure that any CCUs engaged had the appropriate staffing levels and capacity to take on this new task.

d. Incident Management

The Defendants need to move expeditiously to finalize the Intergovernmental Agreement

(IGA) with the UIC College of Nursing (UIC-CON). The IDoA has implemented a Common Incident Reporting format developed by the Governor's office for all of the Consent Decrees. The Court Monitor is familiar with this format and believes it is a sound way of designating the levels of seriousness of an incident (Level 1 – Critical, Level 2 – Serious, Level 3 – Significant). The outstanding issue is the timely review and management of these incidents. The proposed IGA would accomplish multiple tasks including:

- Proactive services plan consultation with Class Members considered high risk
- Routine review of reportable incidents with requisite follow-up with clinical staff when service plan changes are needed
- In depth mortality reviews – looking at clinical records, autopsy/medical examiner reports and interviews with involved staff. With 12 total deaths of Class Members post-transition, it is critical that this function be put in place on a routine basis very quickly.

#### D. Budget

The Illinois legislature approved the full funding request of \$32.5 million for FY 2015 Decree expenses. The major looming issue is what the new Governor and the General Assembly will do regarding the tax surcharge which is set to expire at the end of December 2014 – with an estimated annual impact of \$4.0 billion in reduced revenue for the State. The resolution of this issue may directly impact the Defendants' ability to comply with the Consent Decrees. The Court Monitor will continue to keep the Court informed on this impending budget crisis.

#### E. Cost Neutral Planning

The Cost Neutral Workgroup continues to meet on a regular basis. Berkeley Research Group (BRG) continues to provide expert consultation to the group on a *pro bono* basis. The major current issue is whether it is feasible – given the substantially lower number of placements than required by the Decree and the lag time in accruing Medicaid expenses – to meet the June 8, 2015 timeline under the Decree. The work group has decided to keep collecting available data on a quarterly basis – with the intent to examine available data through calendar year 2014. The subsequent analysis scheduled to occur in February 2015 will provide the necessary insight as to whether sufficient data is available to craft the Cost Neutral Plan. The Court Monitor will keep the Court informed on this time-sensitive mandate.

#### F. Overall Compliance and Recommendations

The Court Monitor finds Defendants in continued compliance as relates to its outreach efforts. In terms of Evaluation by Qualified Professionals, the Court Monitor finds that, while the State has met the numeric targets, there are major continued concerns regarding the quality and comprehensive of the Evaluations. This is quite disappointing given the earlier efforts to resolve this major issue and speaks to the need for increased oversight by Defendants. Hence, the Court Monitor finds that Defendants are not in compliance as relates to Evaluations.

The Court Monitor finds the State in continued non-compliance at the two year point in terms of Community transitions. With 507 transitions as of November 8, 2014, the State is 293 placements below the Decree required level of 800. Over the past year, Defendants have placed 427 Class Members – with 261 (61%) of the annual total in the past six months (May 1, 2014-October 31, 2014). Despite significant work on multiple fronts, the current placement rate seems to have plateaued in the 45-50 rate per month; it

is unclear whether the State can take this placement total to the next level (e.g., 60-70 per month).

Based on the findings in this report, the Court Monitor makes the following recommendations:

1. Require the MCOs doing evaluations to standardize the Evaluation forms and required information (e.g., social histories and Service Plans of Care).
2. Conduct routine and detailed audits/review of MCO Evaluations to ensure consistency, quality and comprehensiveness.
3. Develop a process/protocol for reviewing Evaluations that have a recommendation for no Community placement. This independent review should include the ability to challenge and overturn a negative recommendation.
4. Increase the number and consistency of referrals to Housing Specialists and CMHCs by increasing the number of Evaluations and Service Plans of Care completed by MCOs on a monthly basis.
5. Continue to expand and improve the timely availability of housing units for Class Members who use wheelchairs.
6. Explore alternative strategies to engage, evaluate and place Class Members over the age of 60. Evaluate the potential role that Care Coordination Units (CCUs) might play in this effort.
7. Develop (in an expedited way) the capacity to track, analyze and manage all levels of incidents that occur for Class Members. The proposed Intergovernmental Agreement (IGA) with the UIC College of Nursing (once finalized) should provide a core missing piece. The State also needs designated staff to ensure that all

elements of the review (e.g., mortality reviews) are done in an in depth and timely manner.