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August 15, 2013

SENT VIA EMAIL

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**Re: *JM. v. DOH et al*, Case. No. 07-CV-00604-RB-ACT
Defendants' Third Annual Report**

Dear Ms. Maldonado:

This report constitutes Defendants' obligation to report annually, for a period of five years, on the status of the individuals who may be eligible for the benefits of the Settlement Agreement signed January 8, 2010 and covers the period from July 4, 2012 to August 15, 2013.

Defendants continue to meet with the individuals identified as eligible according to the terms of the Agreement and to facilitate referrals to appropriate programs as appropriate. (*See* Attachment A, CSI Visitation Report dated July 19, 2013).

The past year has been significant for Plaintiffs' filing of Fourth and Fifth Arbitration Demands.

Fourth Arbitration Demand

On June 4, 2012, Plaintiffs filed a Fourth Arbitration Demand, alleging, inter alia, that the terms of the Settlement Agreement were not being met. (*See* Attachment B, and Defendants' response, Attachment C) Following a two day Arbitration in July 2012, the Arbitrator requested that Defendants create a grid/spreadsheet populated with data points identified by Plaintiffs as necessary to demonstrate Defendants completion of the terms of the Settlement Agreement. Since many of the recommendations made by the Columbus Organization were beyond the data points requested by Plaintiffs, a separate Word document titled "Other Recommendations" (for each individual who received Columbus recommendations) was created to report on the resolution of those Other Recommendations. With the assistance of the Arbitrator, the design of the grid and the Other Recommendations was accomplished in August 2012. (*See* Attachment D, email dated August 28, 2012)

Defendants completed the grid and accompanying documents on January 16, 2013⁽¹⁾. (*See* Attachment E) Further communication between the parties continued in an effort to answer all Plaintiffs' questions related to the grid and documents. (*See* Attachments F and G)

Despite these comprehensive reports, Plaintiffs filed a Fifth Arbitration demand on May 13, 2013. (*See* Attachments H and Defendants' Response Attachment I)

Fifth Arbitration Demand

The Fifth Arbitration was held June 17, 2013. The grid and Other Recommendation documents were submitted by Defendants as evidence of completion of the terms of Paragraph 3 c of the Settlement, which states as follows:

Needed Services Evaluations:

c) For those people whose need for safety, medical care or services and support are determined by the assessment conducted by Columbus as not being met, a CSI worker will meet with each resident, and with each person's guardian, surrogate or friend, etc, if any, to facilitate the application for appropriate programs and services. In the event Columbus determines that a person appears eligible for a Waiver program, Columbus will initiate application for those waiver services on behalf of each person and will simultaneously apply for PCO services. The State Defendants will promptly process all applications initiated by Columbus. Defendants shall have sole responsibility for the provision of services provided to the former residents, in accordance with the program guidelines, eligibility criteria, and

¹ Despite the use of unique identifiers, the Grid and documents identified as Other Recommendations are not attached to this report due to the volume of Protected Health Information and other sensitive issues discussed in the documents.

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available funding, subject to the Defendants respective statutory and regulatory responsibilities. DOH shall be responsible for gathering the documents necessary to support the application for services for any individual needing such applications to be processed. Applications shall be processed promptly. Columbus's assessments shall be attached to any application for services.

On July 30, 2013, Arbitrator Gross entered Defendants form of order stating that Defendants have complied with the terms of Paragraph 3c of the Agreement, with the condition that Defendants have a continuing obligation to refer or re- refer any individual with a pending guardianship application who may have declined services prior to the appointment of a guardian. (*See* Attachment J)

Following the filing of the Order regarding the Fifth Arbitration, the Arbitrator directed the parties to meet and attempt to narrow the scope of the remaining Paragraph in dispute, Paragraph 3d. The parties met multiple times in July and continue to seek resolution. (*See* Attachment K)

The Arbitrator has set September 6, 2013, for the Sixth Arbitration to determine the scope of Paragraph 3d, and to make a final determination on how far the Defendants are required to go to meet the intent of Paragraph 3d.

Respectfully Submitted,

WALZ AND ASSOCIATES

/s/ Jerry A. Walz

/s/ Kathyleen M. Kunkel, Esq.

/s/ Anne T. Alexander, Esq.

Jerry A. Walz

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JAW/scc

Enclosure(s): as noted.

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