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September 5, 2013

VIA ELECTRONIC MAIL:

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**Re: *JM v. NM DOH, No. 07-cv-604 RB/ACT*
Defendants' Response to Plaintiffs' submission for inclusion in the DDPC's
Third Annual Report**

Dear Ms. Maldonado and Ms. Fragoso:

Defendants dispute Plaintiffs' conclusion on page 6, that the settlement agreement is out of compliance. Specifically, CSI personnel continue to assist the former residents and are in compliance with the negotiated terms of the settlement agreement that describe the recommended visitation and assistance. All former residents have been referred for Personal Care Option and those not receiving the services have declined or are ineligible for the program. ALTSD does not administer the PCO program and does not improperly reduce services. Individuals who are eligible for waiver services are on the Central Registry wait list, in compliance with the terms of the settlement agreement. The current wait list is approximately ten years for recent applicants. Plaintiffs were fully aware of the wait list challenge at the time of the settlement agreement. All Columbus recommendations for surrogate decision makers have been addressed by CSI personnel, however, individual's lives are not static and the need for support may change. The Office of Guardianship continues to consider petitions.

Agnes Maldonado
Rosalie Fragoso
September 5, 2013
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Defendants agree with Plaintiffs that, following the 5th Arbitration, the Arbitrator concluded that Defendants have substantially complied with the requirement for completing applications for waiver, PCO, and guardianship services for the former residents identified by Columbus as needing those supports. The Arbitrator adopted, verbatim, the Defendants proposed form of order resulting from the 5th Arbitration held on June 17, 2013.

Respectfully submitted,

WALZ AND ASSOCIATES

/s/ Kathyleen M. Kunkel

Kathyleen M. Kunkel
Anne T. Alexander

KK/alw

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