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*Special Litigation Section - PHB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

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BY ELECTRONIC AND U.S. MAIL

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Department of Justice
Hoover State Office Building, Second Floor
Des Moines, Iowa 50319

United States v. State of Iowa, Case No. 04 cv 636;
Glenwood & Woodward Resource Centers

Dear Ms. Kraemer:

On February 9 - 12, 2009, the Department of Justice toured the Glenwood Resource Center ("GRC") and the Woodward Resource Center ("WRC" - collectively the "Centers") in order to assess the status of the State's compliance with the Iowa State Resource Center Plan ("SRC Plan") entered as an order of the court on November 24, 2004.¹ Consistent with our pledge of transparency, we provided detailed exit briefings at the conclusion of our tours at each Center. We write to memorialize our assessment from those tours.

As you know, the court orders concerning WRC and the State's responsibility to place persons in the most integrated setting from both facilities (SRC Plan XIV) terminated on April 1, 2009. However, on April 1, 2009, the parties executed a Memorandum of Agreement ("MOA") under which we will monitor physical and nutritional management services at WRC for one year, to confirm

¹ On April 2, 2008, the court entered the Parties' Joint Motion for Entry of Stipulation for Supplemental Relief. That Joint Motion extended the implementation of certain provisions of the SRC Plan at GRC to October 30, 2008 and extended the final termination of the court's oversight of this action to April 30, 2010. The Joint Motion also required that Plans of Correction be developed for the major areas of the SRC Plan at GRC not implemented on schedule. These Plans of Correction were entered as orders of the court on July 25, 2008.

that the facility maintains substantial compliance with these services. The MOA is discussed in more detail later in this letter. The SRC Plan remains in place at GRC until April 1, 2010.

With the State's continuing implementation of the SRC Plan, our compliance monitoring has become more limited as the areas of non-compliance have become fewer. This letter is correspondingly limited to primarily a discussion of these areas.

As always, we wish to extend special appreciation to you, and the staff at the Centers for their continued hospitality, professional conduct, and timely response to our document requests. We continue to be appreciative of the State's willingness to work cooperatively with the Department to improve services at the Centers.

Woodward Resource Center

Our February 2009 tour of WRC confirmed that WRC had achieved substantial compliance with all the substantive elements of the SRC Plan. Notably, the facility has implemented excellent protection from harm measures, quality assurance systems, medical services, and interdisciplinary team practices. Its efforts to place persons into the most integrated settings appropriate to their needs are robust and yet careful and respectful. In the area of behavioral supports and services, the facility is in the process of developing cutting-edge interventions, and in the area of PNM services, it has successfully implemented an unusually sophisticated and capable system of care. Undergirding many of these systems and programs is an electronic recordkeeping system of remarkable capacity.

Our February tour focused on PNM (SRC Plan XI). Based on our review, we determined that WRC had achieved compliance regarding PNM services. The facility had an effective PNM team in place that was identifying, and responding to, the PNM needs of residents. PNM services was the last major component of the SRC Plan to come into compliance with the SRC Plan at WRC. Because WRC only recently achieved substantial compliance with the SRC Plan regarding PNM supports and services, we executed an MOA calling for the United States to monitor compliance with this provision at WRC for one year, to ensure that compliance is sustained. There is no court oversight of the MOA.

Glenwood Resource Center

Integrated Protections, Services, Treatments, Supports - SRC Plan IV

With regard to the development of integrated, individual support plans and psychological, behavioral, and habilitation services, GRC has achieved substantial compliance with the SRC Plan's requirements. Data collection and analysis processes have improved so that GRC is doing a commendable job in enhancing independence and supporting individuals' self-determination.

There also have been good improvements in interdisciplinary team functioning. Further, while we have been concerned in the past that monitoring processes often missed fundamental aspects of individuals' progress, these processes have improved and now are capable of providing teams with meaningful recommendations.

Clinical Care - SRC Plan V

GRC has achieved substantial compliance with the SRC Plan's provisions regarding clinical care, including: integrating the provision of the various health care disciplines (e.g., medicine, nursing, and psychiatry), and implementing systems of peer review for health care services (SRC Plan V.A); providing preventive, routine, specialized, and emergency clinical services (SRC Plan V.B); and ensuring individuals at heightened risk of health care problems are adequately assessed, treated, and cared for (SRC Plan V.C). The Medical Director's efforts in this achievement bear mention. Under his leadership, the facility has developed strong clinical oversight through multiple vehicles, including productive and substantive daily medical meetings, thoughtful and inquisitive peer review, and thorough and detailed policies and procedures. These improvements are greatly attributable to his efforts. Clinical care was an SRC Plan area that was near substantial compliance at our previous visit, and we are pleased that further review has confirmed that GRC has achieved substantial compliance.

Nursing Care - SRC Plan X

Although GRC is in compliance with SRC Plan's requirements regarding clinical care, lingering issues with nursing care remain. During our February tour, we reviewed the records of residents who had been recently hospitalized, as well as the records of three residents who died in the three months preceding our tour. While care for these three residents was generally adequate and did not apparently contribute to the deaths of the

residents, we did note care issues. For example, one resident did not receive his medications the evening prior to his death. This was a significant breakdown that highlighted a gap in facility procedures regarding individuals returning from hospital visits. However, it did not appear that the inadvertent withholding of medication contributed to this individual's death.

We also noted at least one instance where nursing staff delayed notifying a physician of a change in a resident's health status. We have noted these types of delays in our prior reviews of GRC, and look forward to GRC fully addressing these concerns. Importantly, GRC has good nursing leadership and a competent staff of nurses. It is nearing substantial compliance with all of the SRC Plan's nursing provisions. We are optimistic that GRC will be able to demonstrate at our next visit that it has successfully implemented policies and procedures addressing the need for timely notification of individuals' health care needs. (SRC Plan X.6).

Physical and Nutritional Management - SRC Plan XI

We are pleased to report that GRC has now achieved substantial compliance with PNM services. The facility is fortunate to have the benefit of strong leadership in this area, and it was obvious that the facility, particularly its PNM team, had put significant effort and energy into improving its PNM program. In fact, at the exit conference, one of our consultants commented that GRC's PNM system was "the most sophisticated PNM system [she] had ever reviewed." GRC had increased its training efforts such that the great majority of facility staff has been re-trained on the PNM program. As we observed mealtimes, it was clear that staff knew what individuals' PNM triggers were and the appropriate way to respond to them. The staff at GRC are to be congratulated for their efforts. Our further work as to PNM at GRC, as at WRC, will be to determine that compliance is being sustained.

Communication Services - SRC Plan XII

Communication training continues to be deficit at GRC. The communication plans provided us during our most recent review did not refer to training programs intended to develop appropriate communication behaviors for residents. However, based on our discussion with GRC staff and from reviewing GRC's plans regarding communication services, the facility is working on programs that, if implemented, should be sufficient to bring GRC into compliance with the SRC Plan.

Habilitation - SRC Plan XIII

While most areas of data collection and analysis at GRC have improved, there are still gaps regarding the provision of competency based training to staff regarding the implementation of individuals' habilitation and skills acquisition programs. GRC has put new software in place for the tracking of this training, but this system is not yet fully mature. There is a need to create written procedures for the staff training process. Further, these procedures should be integrated into GRC's methods for tracking such training and identifying staff who require training.

Serving Persons in the Most Integrated Setting - SRC Plan XIV

We have also determined that both WRC and GRC have achieved substantial compliance with the SRC Plan's requirements relating to serving individuals in the most integrated setting appropriate to their needs. In our prior reviews, we had expressed concerns over the State's community incident reporting systems and its ability to gather, aggregate, and analyze data regarding the quality of community services. Based on extensive discussion with State officials and our review of the State's quality assurance mechanisms, it was obvious that the State had put much energy and resources into improving its community services and supports. The State's efforts have included revising its assessment tools and improving quality assurances processes and systems. Further, it has continued its "money follows the person" program to provide resources for community-based services, and this program should also work to expand community-based options for individuals. A good deal of the State's efforts is to be implemented in the coming months, but it is apparent that the State has made appropriate improvements to its community-based system for individuals who have moved into the community from WRC and GRC.

Status of U.S. v. Iowa

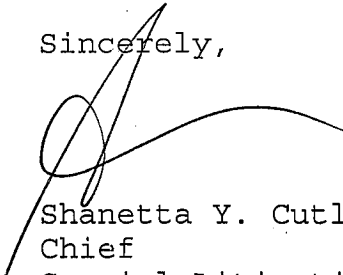
As noted above, the court orders in this case have terminated regarding WRC. We will now continue to monitor the MOA to ensure that WRC maintains compliance with the SRC Plan's requirements regarding PNM services. This monitoring will continue until the MOA terminates on April 1, 2010.

At GRC, the facility has substantially complied with the great majority of the SRC Plan. The court orders at GRC terminate on April 1, 2010. Our monitoring until that time will

focus on ensuring that nursing care, habilitation, and communication services come into compliance with the court orders, and ensuring that the facility maintains compliance with PNM services.

If you have any questions or concerns, please do not hesitate to contact either me at (202) 514-0195, or the attorneys assigned to this matter, Benjamin O. Tayloe, Jr. at (202) 514-8103, or Verlin Deerinwater at (202) 514-6260.

Sincerely,



Shanetta Y. Cutlar
Chief
Special Litigation Section