



Judge Leonard Edwards¹
Santa Clara Superior Court (Ret.)

An Update On The Case Of *Katie A V Bonta*:

Services For Children With Mental Health Challenges And Suggestions How Judges Can Assist The Service Delivery Process

In 2002, several law firms filed a law suit against the State of California and Los Angeles County alleging violations of federal Medicaid laws, the American with Disabilities Act, Section 504 of the Rehabilitation Act and California Government Code section 11135. The suit included requests for improved identification of mental health needs, enhancement of permanency planning, and prompt provision of individualized services designed to promote stability and ensure quality care for children in custody. Additionally, the suit asked that counties to offer family-based wraparound services to children with mental, emotional, or behavioral issues with the aim of facilitating family reunification and reducing multiple and arbitrary placements. The suit also asked that Los Angeles County immediately close MacLaren Children Center and re-rout its funding to family and community-based programs. The law firms approached Marjorie Kelly, then the Acting Director of the Los Angeles Department of Children's Services (DCS), with the lawsuit. Director Kelly had just completed her term as Assistant Director of Social Services for the state and was an experienced child welfare administrator. She consulted with the Los Angeles County Board of Supervisors and with their approval agreed with the goals of the litigation

and reached a settlement that encompassed the requested changes².

The state agency did not participate in the settlement, and the lawsuit against them continued in federal court. In 2003, the federal district court judge granted class certification. Then in 2006 the judge ordered the state defendants to provide both wraparound services and therapeutic foster care to all class members. The federal appeals court reversed and remanded the case on the issue of whether the trial court rightly mandated specific types of services. The trial court determined that all of the mental health services identified as components of wraparound are Medi-Cal eligible. The judge also ordered the parties to provide guidance to county mental health agencies and eligible recipients on how wraparound services should be designated and billed.

In his decision the judge found that the following components of wraparound services are Medi-Cal eligible:

- Engagement of the Child and Family
- Immediate Crisis Stabilization
- Strengths and Needs Assessment
- Wraparound Team Formation

- Wraparound Service Plan development
- Wraparound Service Plan Implementation
- Ongoing Crisis and Safety Planning
- Tracking and Adapting the Wraparound Service Plan
- Transition.

The state defendants entered into a settlement agreement on December 5, 2011. The settlement covered children who are in foster care or who are at imminent risk of foster care placement and who (a) have a mental illness or condition that has been documented or had an assessment already been conducted would have been documented and

(b) who need individualized mental health services, including but not limited to professionally acceptable assessments, behavioral support and case management services, family support, crisis support, therapeutic foster care and other medically necessary services in the home or in a home-like setting, to treat or ameliorate their illness or condition.

IMPLEMENTATION

After the settlement, in February of 2016 the Department of Health Care Services (DHCS) issued an information notice clarifying that all counties must provide

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Katie A services to all Medicaid-eligible youth who need them, and CMS approved a state plan amendment allowing California to implement Therapeutic Foster Care (TFC) through Medi-Cal. The result is that young people who need ICC (Intensive Care and Coordination), IHBS (Intensive Home and Community Based Services), and TFC must be provided services with reasonable promptness.

In order to qualify for these services the youth must (1) be under the age of 21, (2) meet medical necessity criteria, (3) have an open child welfare case³, (4) and is currently being considered for: (a) Wraparound services, (b) Therapeutic Foster Care, (c) Therapeutic Behavioral Services (TBS), (d) Crisis Stabilization, (e) Crisis Intervention or other equally intensive services, (f) Has been assigned a specialized care rate due to behavioral health needs, (g) A foster care group home (RCL 10 or above), (h) A psychiatric hospital, (i) 24-hour mental health treatment facility, or (j) Has experienced their third placement within 24 months due to behavioral health needs.

More recently the Katie A Services mandate has expanded to include juvenile justice youth and children in the mental health system. Statistically, many youths in the juvenile justice system are Medi-Cal eligible including 2,600 Foster Care Wards and 27,600 other juvenile justice involved youths. According to one analysis, more than 43,000 youths are eligible for ICC and IHBS services, including twenty thousand subclass members, five thousand juvenile justice involved youth, and almost twenty-eight thousand youth served by county Mental Health Plans. These numbers are only approximations and should lead to further expansion of Katie A services.⁴

Implementation of Katie A included nearly 11,000 children in FY 2016-2017 with over 6,000 receiving services on any given day.⁵ The services have resulted in improved outcomes for families and youth including: earlier screening and referral, increased safety, stability and permanency, more youth voice and teaming, and increased engagement of caregivers. When juvenile justice and mental health system children are included, estimates are that 43,000 children are eligible for these services statewide.⁶

WHAT DOES THIS HAVE TO DO WITH JUVENILE COURT JUDGES?

The Katie A settlement provides additional services for eligible children most of whom are in some way connected to the juvenile court. Judges should be pleased that children with mental health challenges are having their needs addressed. However, many judges may want to know how the implementation is working in their county. Are these services being delivered in a timely fashion? How many children have been screened and of that group, how many have been provided with services? Is enough money being spent so the child can receive the support and services they need? Is there anything a judge can do when a youth appears in court who appears to be eligible for Katie A services?

Judges should take great interest in the identification of children eligible for Katie A services and proactively work to remove any barriers hindering implementation of these services. Implementation of Katie A services will increase access to appropriate, individualized care, will improve the quality and effectiveness of those services and will increase greater collaboration among child-serving agencies and providers. The following suggestions may lead

to more children in each county receiving the services they need and are entitled to. Judges should:

1. Contact the Children's Mental Health Coordinator in your county. That person may be the behavioral health coordinator or director. Different counties may have different names for that person, but each county has someone who is in charge of implementation oversight of Katie A services. A helpful reference is the Department of Health Care Services' Katie A website located at <http://www.dhcs.ca.gov/Pages/KatieAImplementation.aspx>.

2. Find out if additional funding is needed in your county for existing staff and training needs. Shortage of social workers or staffing positions can impact the implementation of services.

3. Determine if your county is providing training for staff as well as to community mental health partners to help ensure those providing ICC and IHBS are knowledgeable about those services.

4. Meet with the person in charge of implementation oversight of Katie A. services and learn how many children are currently receiving Katie A services and how the process of identification, evaluation, and service delivery works in your county. In particular, determine when a child is taken into state custody how long a health and mental health evaluation takes to complete and whether that evaluation includes the extent the child may have suffered trauma. This evaluation can impact placement stability and the success of any case plan.

5. Find out if there is a waiting list for evaluations or for services, how many children are on those lists, and what the timing is for them to be evaluated or receive services.

6. When you are hearing individual cases in court, ask

whether a particular child has been evaluated for Katie A services, and, if so, whether he or she is receiving those services. If the child has not been evaluated, order the social worker to take steps to have the child evaluated and ask that the case be returned to court in a reasonable time to determine what the results of the evaluation are. The social worker is mandated to refer the case to mental health service providers for the evaluation. The mental health worker has 10 days to complete the assessment.

7. Determine if different methods have been identified to strengthen services and meet the needs of your county's cross-cultural communities. Determine if the training provided to staff will strengthen their skills so they have an understanding how to deliver services to persons from those different cultures.

8. Ask the attorneys who appear in your court (particularly the attorneys for children) to review their clients' cases and report to the court whether any of their clients have been evaluated for eligibility for these services.

9. To educate judicial officers and attorneys, ask that the Mental Health Coordinator to appear at a court training to explain the entire process from evaluation to service delivery.

10. Include CASA administrators and advocates in the training so that they understand the process and how they can alert the court to the eligibility of the children they are appointed to represent.

Katie A has opened a number of intensive services available to many of the children who appear in California juvenile courts. These services may help prevent removal from parental care or assist in the return to parental care or to another permanent

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placement. It is in the interest of those children that judges take steps to ensure that all eligible children receive these services. The results will be better outcomes for some of our most vulnerable children. 🍷

Endnotes

- 1 The author wishes to thank Patrick Gardner, CEO of Young Minds Advocacy, Marjorie Kelly, former Assistant Director of the California Department of Health and Human Services, and Ashley Jerbic for their assistance in the preparation of this article.
- 2 The Los Angeles portion of the Katie A case is still active in the court because Los Angeles has not proven that it can consistently meet the requirements the case established.
- 3 An open child welfare case is (a) the child is in foster care, (b) the child has a family maintenance case including voluntary family maintenance, (3) but does not include cases in which only emergency response referrals are made.
- 4 Refer to the Katie A website: Google “Katie A DHCS”
- 5 These figures come from Patrick Gardner, President of Young Minds Advocacy, one of the plaintiff’s attorneys in the Katie A. v Bonta case. He was a staff attorney for the National Center for Youth Law at the time.
- 6 *Id.*
- 7 Different counties use other labels for these services. The state has attempted to rename these services as Pathways to Mental Health.