




## MEMORANDUM

**To:** Suzanne Feeney, General Manager, Medicaid, Behavioral Solutions, OptumHealth  
William Fishbein, Doctor of Philosophy (PhD), Executive Director, OptumHealth New York City Behavioral Health Organization (BHO)  
Adele Gorges, Executive Director, New York Care Coordination Program (NYCCP)  
Deb Happ, PhD, Vice President, Operations, Magellan Behavioral Health  
Kelly Lauletta, Hudson River Regional Director, Community Care Behavioral Health  
Christine Mangione, Beacon Team Lead, NYCCP  
Katharine O'Connell, General Manager, Magellan Central New York BHO  
Richard Sheola, Corporate Vice President, ValueOptions  
Mitchell Shuwall, Associate Executive Director, The Zucker Hillside Hospital, Long Island Jewish Medical Center  
Carole Taylor, Chief Clinical Officer, Community Care Behavioral Health

**From:** Tom Smith, Office of Mental Health (OMH) Director of Operations, New York State BHOs  
Steve Hanson, Office of Alcoholism and Substance Abuse Services (OASAS) Acting Associate Commissioner  
Don Zalucki, OMH Director, Bureau of Program and Policy Development

**Date:** January 30, 2012

**Re:** Guidance to BHOs re: court-ordered treatment

The Offices are providing clarification to BHOs regarding individuals mandated to receive treatment who do not meet medical necessity criteria (MNC). When an individual is court ordered (or required as a condition of parole or probation) to receive substance abuse services but does not meet MNC the provider should follow guidance issued by OASAS in [Local Service Bulletin 2008-02](#) .

This bulletin is paraphrased as follows:

In rare cases, a court or Supervision Agency may order/condition an individual into a level of care that does not match the criteria for that program. In those

instances, the provider should make attempts to educate the court about the clinical needs of the individual and what a more appropriate level of care would be. If after these attempts the court/agency still maintains the order/condition to that level of care and contingent on an assessment that the individual would not be endangered by the court/agency-ordered placement, the provider should admit the individual so as not to place the individual at risk for violating the order. The provider should then contact its respective field office and OASAS Counsel's office for further guidance.

If the provider, after following this guidance, reports that the individual continues to have a court order/condition requiring inpatient care and the BHO determines that MNC still are not met, the BHO should designate the case as 'Criminal Justice Contingency Treatment.' BHOs will not issue notices as long as the individual remains under a court order/condition but will continue to review these cases. BHOs should report on the frequency of these designations in their quarterly reports.

cc:	Robert Myers, OMH	Kristin Riley, OMH
	Rob Kent, OASAS	Adam Karpati, DOHMH
	John Tauriello, OMH	Susan Essock, OMH
	Jay Zucker, OMH	Sheila Donahue, OMH
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