

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

CONSUMER ADVISORY BOARD, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket no. 91-CV-321-P-S
)	
BRENDA HARVEY, et al.,)	
)	
)	
Defendants.)	

**ORDER ACCEPTING THE SPECIAL MASTER’S REPORT REGARDING THE
SUPPLEMENTAL PLAN OF CORRECTION FOR ADULT PROTECTIVE SERVICES**

Before the Court is the September 18, 2009 Special Master’s Report Regarding the Supplemental Plan of Correction for Adult Protective Services (APS) (Docket # 362) (the “September 18, 2009 APS Report”). Via this Report, the Special Master accepted and approved Defendants’ reports on the only remaining requirement for APS certification—implementation of tracking for APS recommendations. In approving Defendants’ latest plan, the Special Master found only that Defendants’ plan was a “reasonable means of achieving a cure.” (Sept. 18, 2009 APS Report at 3.) Given this limited finding, the Special Master listed APS as one of three “significant open issues left for resolution” in his Final Report. In relevant part, Plaintiffs’ Objections to the Final Report of the Special Master asserts that, with respect to APS, “findings of noncompliance remain outstanding.” (Pls.’ Obj. (Docket # 372) at 10-11.)

In the Court’s assessment, the APS system must be reviewed in light of the minimal requirements of the 1994 Consent Decree, which are listed in Section XVI(8). This Section requires that Defendants have “in place” “an advocacy system adequate to meet all persons’ needs.” (1994 Consent Decree at 38.) In the Court’s assessment, the record clearly supports a finding that the improved APS system currently meets or exceeds this requirement. Accordingly, having reviewed the available record in its entirety, the Court FINDS Defendants have achieved substantial compliance with Section XVI(8) of the 1994 Consent Decree.

While there is no evidence suggesting that any class member has been left in an unsafe situation as a result of inadequate or untimely APS investigations, the record does suggest

lingering concerns regarding how Defendants are tracking and implementing critical APS recommendations and, thereby, taking any necessary corrective actions to ensure the ongoing well-being of class members. In the Court's view, these concerns are most appropriately addressed in the context of considering whether there are mechanisms for future compliance.

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 2nd day of February, 2010.

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