

EXHIBIT D1a

BIRCH TREE COMMUNITIES THERAPEUTIC COMMUNITIES

Therapeutic Communities Defined

Therapeutic Communities (TC) is a residential program that is reimbursed on a per diem basis. TC members are placed in either a Level 1 Secure Facility or a Level 2 Supervised Group Home setting. The TC certification manual specifies the minimum number and frequency of Mental Health Professional (MHP) and Qualified Behavioral Health Provider (QBHP) services which must be rendered weekly. Currently, Mid-South Health Systems and Birch Tree Communities are the only two providers in Arkansas offering this service.

The goal of Level 1 Therapeutic Communities is to prepare clients for successful re-entry into society upon the completion of their term of court-ordered treatment. Treatment is provided in a controlled and secure environment with around the clock supervision. These programs serve as a step-down from Arkansas State Hospital (ASH) for those who have been court-ordered through Act 911 subsequent to a determination of “not guilty due to mental disease.” These clients are “conditionally released” from ASH to the TC site.

Level 2 Therapeutic Communities are a lower level of care provided in a supervised Group Home setting with the primary goal of fostering personal growth leading to more independence and personal accountability. This service emphasizes the integration of an individual within his or her community, and progress is measured within the context of the community’s expectation.

Birch Tree Communities currently serves 312 TC members at twelve locations in 8 cities across the state. There are currently 106 court ordered members including 81 under a 911 Conditional Release order, 16 on a 180 day order, one on a 45 day order, and eight on an Act 310 release.

A few key points to consider:

- The last rate adjustment for Behavioral Health Providers was in 2018 and was a DECREASE
- In the Medicaid Provider Rate Review Report that was done over a year ago shows that the Human Developmental Centers (HDCs) and the Arkansas State Hospital (ASH), both of which offer comparable levels of care, have daily rates 49% to 64% higher than Therapeutic Communities rates.

- The current rate for providing services at ASH is \$700 per day
- The current rate for providing services in DD programs is \$450-\$500 per day
- The current rate for providing services in Therapeutic Communities is \$175 per day
- The cost of providing TC services has nearly doubled in the last year since the rate review study was done. Gas Prices, Food Prices, and Labor Costs have made it impossible to sustain TC programs at the current rate
- DHS has recommended that the TC rate be increased to \$500 per day for Level 1 and \$358 per day for Level II

The Value of Therapeutic Communities

- Birch Tree Communities and Mid South Health Systems are the only two agencies providing TC services in Arkansas.
- TC programs provide the only relief to the overcrowding at the Arkansas State Hospital for Seriously Mentally Ill adults
- 18% of Birch Tree Members are either employed at least part time in the Community or provide Volunteer Services
- Within the last Four Years, Birch has transitioned a total of 189 members from the TC Level of Care to the lower Rehab level of care.
- Birch currently has 36 Members tiered at Level 3 who have transitioned out of TC to Rehab services that results in significant savings to the PASSES

Peer Reviewed Research

- A Peer reviewed study of 78 members admitted to Birch Tree Communities between July 1, 2018 and June 30, 2019 showed a significant cost savings regarding psychiatric hospitalizations
- This study documented the positive impact of Birch Tree Communities in reducing the number of acute psychiatric hospitalizations and improving the quality of life of those members served.
- The research showed an 87.3% decrease in the number of psychiatric hospitalization days of members one year prior to Birch admission and one year post admission
- Prior to Birch admission, 78 members spent an average of 67.46 days per year in the hospital and one year following Birch admission, the same members averaged 8.55 days in the hospital.
- The cost of providing inpatient psychiatric care to the 78 Members one year pre Birch admission was approximately \$3,878,094
- The cost of inpatient psychiatric care to the 78 Members one year following Birch admission was \$491,579

Timeline of Changes

- In 2019, TC providers and The Department of Human Services (DHS) began discussions regarding changes to the TC manual. Both TC Providers and DHS agreed that the number

and frequency of services required weekly, under the original certification manual, were too high for some members and prohibits treatment plans from being individualized.

- The Department of Human Services (DHS) began writing a new proposed TC certification manual in 2019 with a lower number and frequency of services that both providers agreed was appropriate clinically, more manageable, and more individualized.
- All parties agreed that the new certification manual should be adopted.
- Before the new TC manual could be promulgated, the Covid 19 Pandemic created the Public Health Emergency (PHE). By Executive Order, the rules that were scheduled to be promulgated in the new manual, including the reduced minimums, were put into place until the end of the PHE.
- There were two solutions that were discussed to resolve the possible gap between the end of the PHE and Promulgation. First, there could be an emergency promulgation of the TC manual. This would have insured that the TC manual could be implemented before the end of the public emergency.
- Second, the State could offer leniency in enforcement of the TC certification manual for failure to abide by the higher frequencies so long as both providers were meeting the new, agreed upon, standards.
- Birch Tree Communities continued to operate under the rules of the Public Health Emergency while awaiting promulgation of the new TC Manual and the PHE was extended several times
- In 2020, DHS announced plans on promulgation and finalization of a new Home and Community Based Services manual by the Summer of 2021. The new TC certification manual was to be promulgated at the same time. There was concern that this could create a gap between the end of the public emergency and the implementation of the new TC certification manual. The result of this gap would mean that both existing TC providers would be required to deliver the previous higher minimum services that are not individualized, are cost prohibitive and are a waste of resources
- All parties agreed that the new standards were preferred but the uncertainty of how long the PHE would continue remained an issue.

Community Support System Providers

- While continuing to provide services during the PHE and awaiting promulgation of the new manual, a plea was made by DHS for the two TC Providers to become CSSP Providers
- CSSP is a Developmental Disability model that Providers were encouraged to adopt primarily to allow delivery of services to dually diagnosed clients that are very difficult to place.
- TC Providers assisted DHS in drafting the CSSP manual to include Behavioral Health Therapeutic Communities standards
- In the Fall of 2021, both TC Providers agreed to become certified as CSSP providers with the promise of revised rates to be able to deliver the services by January 1, 2022
- Following ongoing meetings with DHS regarding the new rates, Providers remained in limbo as to when, or even if, the new rates would become effective.
- Providers solicited the help from Legislators in an effort to get this ongoing issue resolved.
- Deann Vaught and other Legislators formulated a Mental Health Caucus to address ongoing issues and concerns with DHS and the delivery of Behavioral Health Services
- Prior to the May 16 MH Caucus meeting, a meeting was held with TC Providers, DHS, and Legislators to discuss the implementation of the new proposed TC rates
- A follow up meeting was held by Elizabeth Pittman with DHS on Thursday, May 19 with the Two TC Providers who reported that the request for the increased TC rates would be submitted to CMS by end of the day on Friday, May 20, 2022. She reported that the rate increase would retro back to April 1, 2022
- It was learned during negotiations that the requirement for the PASSES to pay a minimum of the Medicaid rate had been removed from the PASSE agreements without the knowledge of the providers.
- It was learned on June 9, 2022 that the request to CMS to increase the rates “was only temporary” and would end when the PHE was over
- Once the PHE ends, there will be a Gap unless the new rates are permanently promulgated.

Negotiations with PASSES

- Both TC Providers were asked to negotiate higher rates with the PASSES while awaiting approval from CMS on the temporary rate increase to the end of the PHE
- The responses from the Four PASSES with Birch were varied
 - PASSE 1 (NO RESOLUTION) Visited the site, requested detailed program information
 - PASSE 2 (NO RESOLUTION) Agreed to increase rates only after approval and promulgation.
 - PASSE 3 Offered to increase rates by ½ of the recommended rate on July 1 and increase rates to the full amount on January 1, 2023
 - PASSE 4 Offered to increase rates by a TBD percentage of the recommended rate on July 1 and increase rates to the full amount on January 1, 2023

Keys to Resolution

- Commitment from DHS to amend the Medicaid TC rates (to the rates that were published in the fall of \$500 for Level 1 and \$358 for Level 2) retroactively back to April 1, 2022. We understand this will be in two phases through the public health emergency first and then through a promulgation.
- Commitment from DHS to eliminate any gaps between the Public Health Emergency CMS approved rates and the newly promulgated rates. This would include moving to an emergency promulgation if necessary.
- Commitment from DHS that PASSEs will not be allowed to pay rates that are lower than the Medicaid rates. This would include an obligation to retroactively go back to April 1st with the Medicaid rate change.
- Commitment from DHS to have communication and transparency with existing providers about any changes to the TC service definition or rates in the promulgation.