

United States Senate

WASHINGTON, DC 20510

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Dear Mr. Slocum, Mr. Mnaymneh, and Mr. Tamer,

Wellpath's healthcare services have caused alarm in jails and prisons across the country. We have sent you a letter with a series of questions about these problems. In addition to the issues surrounding Wellpath's healthcare nationally, we are also deeply concerned about Wellpath's operations in the Commonwealth of Massachusetts in particular. We write to raise concerns about the inadequacy of Wellpath's healthcare provided to individuals incarcerated in Massachusetts state prisons and to seek answers to questions about these problems.

Wellpath — the largest prison health contractor in the country¹ — took over the operation of healthcare in Massachusetts state prisons in 2018.² Since then, advocates and news outlets have raised concerns that Wellpath is systematically failing to provide adequate care to individuals incarcerated in Massachusetts. Some of the most serious complaints against Wellpath include reports of: time-sensitive care being delayed; outright denials of care; inadequate staffing; Wellpath staff members' negligence and failure to follow physician treatment plans or Wellpath's own policies; and the inappropriate use of restraints and solitary confinement for people with mental health needs.³

¹ U.S. Department of Justice, Civil Rights Division, San Luis Obispo County Jail Findings Letter, August 31, 2021, p. 5, https://www.justice.gov/opa/press-release/file/1429076/download?utm_medium=email&utm_source=govdelivery.

² The Marshall Project, "Prison Healthcare Means Not Knowing What's Slowly Destroying My Body," James Keown, August 18, 2023, <https://www.themarshallproject.org/2023/08/18/prison-mystery-illness-wellpath-appointment-delays>.

³ Bay State Banner, "Activists target medical neglect in Mass. Prisons," Anna Lamb, September 21, 2022, [https://www.baystatebanner.com/2022/09/21/activists-target-medical-neglect-in-mass-prisons/#:~:text=Organizers%20and%20advocates%20from%20the,medical%20neglect%20in%20state%20prisons.](https://www.baystatebanner.com/2022/09/21/activists-target-medical-neglect-in-mass-prisons/#:~:text=Organizers%20and%20advocates%20from%20the,medical%20neglect%20in%20state%20prisons.;); Patch, "Barnstable Co. Sheriff Moves To In-House Medical, Mental Health Staff," Montana Samuels, June 28, 2023, <https://patch.com/massachusetts/falmouth/barnstable-co-sheriff-moves-house-medical-mental-health-staff>; WBUR, "Fewer than 10% of applicants have been granted medical parole, frustrating some Mass. Lawmakers," Deborah Becker, March 3, 2022, <https://www.wbur.org/news/2022/03/03/mci-norfolk-wellpath-medical-parole-debate>;

The Deeper Than Water coalition surveyed incarcerated individuals at Massachusetts' MCI Norfolk. It found that 79% of respondents had an evident medical condition that was being ignored by medical staff, while over 80% reported facing delayed care.⁴ Only 25% of survey respondents with a treatment plan said the plan was being followed by Wellpath medical staff.⁵ Furthermore, Wellpath has canceled off-site specialist visits recommended by doctors⁶ and discontinued medications without a medical justification.

Wellpath also routinely understaffs some of its facilities. For example, at MCI-Norfolk where roughly one fifth of the population is over 60 years old,⁷ critical healthcare positions have remained unfilled. At various points in 2022, Wellpath failed to staff a Medical Director, Director of Nursing, or certain nurse practitioner and mental health clinician roles.⁸ As a result, MCI-Norfolk providers often cancel medical appointments. From July 2021 until June 2022, 470 medical appointments were cancelled by Norfolk medical providers.⁹

Additionally, in its capacity as the Massachusetts Department of Correction (DoC)'s medical vendor, Wellpath prepared guidance regarding which deaf and hard-of-hearing individuals incarcerated in Massachusetts qualified for various types of hearing aid devices.¹⁰ Following the implementation of Wellpath's guidance, many individuals who previously had access to captioned telephones ("CapTels") that transcribe speech have seen their CapTel access revoked and have been left only with access to regular phones, despite their auditory disabilities.

Furthermore, Wellpath providers in Massachusetts have inappropriately intervened with individuals who have mental illnesses, including by abusing the use of solitary confinement and defaulting to the use of physical or chemical restraints in response to mental health crises.¹¹ A

Disability Law Center, "Investigation Report: Experiencing the Pandemic Inside Department of Correction Facilities – MCI-Shirley and MCI-Norfolk," March 28, 2022, p. 2, 10,

<https://www.dlc-ma.org/wp-content/uploads/2022/03/FINAL-Public-Report-C-19-DOC-Facilities-3.28.2022-1.pdf>

⁴ Deeper Than Water, "Incarcerated People Speak Out About Medical Neglect in Massachusetts Prisons," pp. 2-3, <https://drive.google.com/file/d/11aqS7M34MRyQqEcbLSxXL6VDPCuim22G/view?pli=1>.

⁵ *Id.* at 2.

⁶ Disability Law Center, "Investigation Report: Experiencing the Pandemic Inside Department of Correction Facilities – MCI-Shirley and MCI-Norfolk," March 28, 2022,

<https://www.dlc-ma.org/wp-content/uploads/2022/03/FINAL-Public-Report-C-19-DOC-Facilities-3.28.2022-1.pdf>.

⁷ GBH, "New COVID-19 Outbreak At MCI-Norfolk Worries Prisoners Advocates," Jenifer B. McKim, November 9, 2020, <https://www.wgbh.org/news/local/2020-11-09/new-covid-19-outbreak-at-mci-norfolk-worries-prisoners-advocates>.

⁸ Massachusetts Department of Correction, "MCI Norfolk Quarterly Health Services Meetings," January-April 2022, p. 4, 7, 13, 16, [On file with the Office of Senator Elizabeth Warren].

⁹ Massachusetts Correctional Institution at Norfolk, "Norfolk Health Date 21-22: Healthcare Encounters," 2022, [On file with the Office of Senator Elizabeth Warren].

¹⁰ Letter from Senator Elizabeth Warren, et al., to Commissioner Carol Mici, May 10, 2023,

<https://www.warren.senate.gov/imo/media/doc/2023.05.10%20Congressional%20Letter%20re%20Hearing%20Accomodations.pdf>; Wellpath, "Guidelines for the Deaf and Hard of Hearing," Revised January 26, 2022, on file with the Office of Senator Elizabeth Warren.

¹¹ Disability Law Center, "Public Report: Efficacy of Service Delivery Reforms at Bridgewater State Hospital (BSH) and Continuity of Care for BSH Persons Served," January 2022, pp. 16, 22-23, <https://www.dlc-ma.org/wp-content/uploads/2022/02/DLC-BSH-January-2022-Public-Report-2.9.2022.pdf>; U.S. Department of Justice, Civil Rights Division, "Investigation of the Massachusetts Department of Correction," November 17, 2020,

2020 DOJ investigation revealed that, under Wellpath, “Massachusetts’ prisons subjected incarcerated people in mental health crisis to prolonged periods of restrictive housing conditions, instead of providing them constitutionally adequate mental health care and supervision.”¹²

Anecdotally, incarcerated individuals in Massachusetts have noticed a decline in quality of care and longer delays since Wellpath took over the state’s carceral healthcare from the previous providers, the University of Massachusetts Chan Medical School and the Massachusetts Partnership for Correctional Health.¹³ One incarcerated individual asserted, “Wellpath is by far the worst medical provider I’ve seen in my 38+ years of incarceration.”¹⁴ Another summarized, “[e]ver since [Wellpath has] taken over medical, it’s been a nightmare.”¹⁵

Given these and other persistent issues with Wellpath’s provision of healthcare, advocates have launched a campaign for Massachusetts’ Department of Correction to not renew its Wellpath contract, which is set to expire in June 2024.¹⁶ The state’s alternatives include providing care through the state government or using a university provider, as Massachusetts has done in the past. Advocates also recommend turning to networks of nonprofit providers that deliver care for both incarcerated populations and the general public, as New York City has done.¹⁷

As members of the congressional delegation from Massachusetts, we are especially concerned with reports of Wellpath’s failure to provide proper care for incarcerated people in our state. To help the public better understand Wellpath’s conduct in jails and prisons and its efforts to provide adequate care, we request that you answer the following questions no later than January 8, 2024:

1. List where all you operate in Massachusetts.
 - a. For each location, share the contract under which you operate.
2. What staffing level is required under your contract in each Massachusetts facility?
 - a. What percentage of the required staffing have you provided? Answer by providing raw data by position/role broken down by month over the past 12 months.
 - b. What percentage of your current medical staff positions are unfilled?

<https://www.justice.gov/crt/case-document/file/1337856/download>.

¹² U.S. Department of Justice, Office of Public Affairs, “Press Release: Justice Department Secures Agreement with Massachusetts Department of Correction Investigation Involving Individuals in Mental Health Crisis,” December 20, 2022, <https://www.justice.gov/opa/pr/justice-department-secures-agreement-massachusetts-department-correction-investigation>; U.S. Department of Justice, Civil Rights Division, “Investigation of the Massachusetts Department of Correction,” November 17, 2020, <https://www.justice.gov/crt/case-document/file/1337856/download>.

¹³ Interview with Deeper Than Water Coalition Member, June 14, 2023, [On file with the Office of Senator Elizabeth Warren].

¹⁴ The Appeal, “People In Massachusetts Prisons Say For-Profit Medical Company Leaves Them Without Teeth,” Elizabeth Weill-Greenberg, June 1, 2023, <https://theappeal.org/massachusetts-prisons-wellpath-dentures-teeth/>.

¹⁵ *Id.*

¹⁶ Deeper Than Water, “Incarcerated People Speak Out About Medical Neglect in Massachusetts Prisons,” p. 2-3, <https://drive.google.com/file/d/11aqS7M34MRyOqEcbLSxXL6VDPCuim22G/view?pli=1>.

¹⁷ The New Yorker, “The Jail Health-Care Crisis,” Steve Coll, February 25, 2019, <https://www.newyorker.com/magazine/2019/03/04/the-jail-health-care-crisis>.

- c. In which facilities do you provide a medical doctor on site 24 hours per day (if any)?
 - d. As Wellpath pursues contract renewal in Massachusetts, how does Wellpath propose to ensure that the contractually required staffing level is satisfied at each facility?
3. Does Wellpath provide any portion of unspent funds back to the Massachusetts state government?
4. As Wellpath pursues contract renewal in Massachusetts, and as the number of incarcerated elders grows in the state, is Wellpath proposing that it will cut healthcare operational costs in Massachusetts prisons?
 - a. If so, how do you cut costs without decreasing the quality of care?
 - b. How do you plan to account in your budget for the rising number of older prisoners given they are often the most medically compromised and expensive patients in DOC?
5. Over the past five years, has Wellpath cut healthcare operational costs in Massachusetts prisons?
 - a. If so, from which line items did Wellpath reduce operational costs in Massachusetts?
6. Has Wellpath or H.I.G. Capital paid for any lobbying to any government entities in Massachusetts in the past 5 years?
 - a. List the entities and how much has been spent on lobbying.
7. Has your company given any money to local sheriffs' races in Massachusetts in the past 5 years?
 - a. List the counties where the sheriffs ran and how much has been spent on campaign contributions for each.
8. How do you assess the quality of care provided under your contract in Massachusetts?
 - a. Provide any internal policies used to evaluate your standard of care.
9. How much have individuals incarcerated in Massachusetts been charged for copays in your facilities over each of the past 5 years?
 - a. Have you tracked changes in the percentage of incarcerated people seeking care based on the amount of the copay charged? If so, what changes have you identified?
 - b. What does the company do when an incarcerated person seeks medical attention but cannot afford the copay?
10. How does the availability of correctional staff or the scheduling of court dates affect access to healthcare in the Massachusetts facilities where you operate?
 - a. How do you report appointments that incarcerated people couldn't attend because there was no staff member available to transport the patient? For each facility


- where you operate, provide the number of times this has happened in the past 5 years.
- b. How do you report appointments that incarcerated people could not attend because the appointment conflicted with a scheduled court date? For each facility where you operate, provide the number of times this has happened in the past 5 years.
 - a. Are incarcerated individuals ever charged a copay for such appointments that are canceled due to the unavailability of a guard or due to a scheduled court date?
11. Under what circumstances is any form of restrictive confinement or seclusion used in response to a mental health condition in Massachusetts?
- a. What mental healthcare (if any) is provided to individuals in solitary confinement, or any form of restrictive confinement or seclusion?
12. How many healthcare-related grievances have been filed in the Massachusetts facilities where you operate in each of the past 5 years?
- a. What have been the topics of those grievances?
 - b. For each of the past 5 years, what percentage of grievances have been returned as improperly filed? What percentage of grievances have been approved? What percentage have been partially approved?
 - c. When a grievance is approved, what steps are taken to correct the identified problem?
 - d. Who is responsible for ensuring the correction is made?
 - e. What percentage of grievances have not received any reply for 20 business days or more?
13. List the lawsuits filed against the company for its operations in Massachusetts over the past 5 years.
- a. For each, indicate the outcome of the lawsuit (settlement, dismissal, jury verdict, etc.)
14. How does the company decide where to allocate money in its operating budget for Massachusetts?
- a. What are the top five line items in your budget for operations in Massachusetts and how much is spent on each?
 - b. Over the course of the contract, how much has Wellpath been fined by DOC for staffing inadequacies?
 - c. How much could Wellpath have been fined for inadequate staffing if the maximum allowed fines were imposed?
 - d. How much in additional funds beyond the initial contract was Wellpath given from DOC in the past five years to incentivize staff hiring and retention? Please provide a breakdown of where how this money was spent, and if it was spent on bonuses and/or raises, to whom those went broken down by job title and amount.
15. How many doctors do you employ in Massachusetts facilities? How many nurses? How many physician assistants?

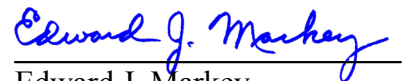
- a. What share of doctors are licensed to practice medicine?
 - b. What is your company's protocol for checking doctors' and nurses' licenses?
 - c. What is your company's protocol for checking current and previous Board of Medicine complaints against Wellpath medical providers or potential hires?
 - d. Are there any differences between the qualifications required for doctors in your facilities and doctors operating in the local community? If so, what are the differences?
16. What types of preventative care do your medical providers offer under its contract in Massachusetts?
- a. What process must an incarcerated person go through to access preventative care?
 - b. Are incarcerated individuals charged copays for preventative care?
17. For what types of dental, mental health, or medical services are providers required to seek additional approval from the company before providing care?
- a. Who must approve that request?
 - b. What factors do they consider? What is the process of securing approval?
 - c. How long does this review and approval process take?
 - d. What recourse do patients and Wellpath providers have if a request is denied?
 - e. For each type of care (medical, mental, dental health), what percentage of requests by providers to obtain a consultation, diagnostic testing, prescribe medication or perform a procedure are not approved in full?
18. What is the average time between a cancer diagnosis and the initiation of treatment for your patients in Massachusetts?
- a. What is the average time between request for a diagnostic procedure (biopsy or imaging) for suspected new malignancy and completion of the procedure?
19. Does Wellpath participate in any voluntary accreditation system in Massachusetts?
- a. What information do you make available to accreditors?
 - b. In how many of the 5 most recent accreditation cycles did an accreditor do a site visit to any of your facilities?
20. What percentage of treatment plans — including indicated consultations, diagnostics, procedures, follow-up appointments and medications recommended by outside specialists — are implemented without alteration in Massachusetts?
- a. Are incarcerated patients' medications ever changed or not provided without approval from the prescribing doctor or outside physician who recommended the medication?
21. What are your protocols for screening patient for cognitive impairment?
- a. Please provide us with the Wellpath policy for cognitive impairment screening and referral.
 - b. What percentage of individuals over age 55 have had a documented cognitive impairment screening performed?

- c. How many Wellpath medical providers in Massachusetts are qualified to conduct screenings for cognitive impairment, which screenings are they qualified to deliver and what training or accreditation do these qualifications rest on?
 - d. What steps are taken when a provider finds that a person is not competent to make medical decisions on their own behalf? Who then makes determinations about treating and medicating the patient?
22. What are Wellpath's internal policies for responding to deaths in custody?
- a. How many deaths have occurred in Massachusetts facilities where you operate in each of the past 5 years?
 - b. During each incident, were the company's mortality policies followed? Were DOC's policies followed?
 - c. Under what circumstances (if ever) is a mortality review conducted by an independent entity?
23. What guidelines does Wellpath use for determining which incarcerated individuals in Massachusetts will receive access to captioned telephones?
- a. Please provide a copy of the guidelines.

Thank you for your attention to this important matter.

Sincerely,


Elizabeth Warren
United States Senator


Edward J. Markey
United States Senator