

*L.J. v. Massinga* Independent Verification Agent

Certification Report for Defendants 67<sup>th</sup> Compliance Report

**Appendix 1**

**IVA Response to Defendants' Report on Additional Commitments**

**Defendants' 67<sup>th</sup> Report, pp. 39 – 66.**

**(July 1 – December 31, 2021)**

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**IVA Response to Defendants’ Report on Additional Commitments**

**Defendants’ 67<sup>th</sup> Report, pp. 39 – 66**

**(July 1 – December 31, 2021)**

**1. Preservation and Permanency**

There are seven Additional Commitments in the Preservation and Permanency section.

*1. Based on an analysis of the needs of the children and families that come to the attention of BCDSS, BDCSS will determine biennially the level of need and the amount of funds needed to fund in-home family preservation services, separate and apart from the regular program of protective services and safety case management services, to provide each family of a child at risk of removal with in-home family preservation services in a duration and intensity reasonably calculated to enable the child to remain with the family without removal. The DHR Secretary (“the Secretary”) shall include in the DHR budget proposal funds that are sufficient, in the Secretary’s judgment, to ensure that in-home family preservation services are available in the size and scope determined by the assessment and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: “BCDSS/DHS agree that the amount of funding provided is sufficient to meet the individual needs of families and prevent removal”

IVA response: Unable to determine compliance due to lack of information/documentation

Defendants still have not provided the required assessment and analysis of the needs of children and families requiring assistance from BCDSS to determine the level of need and amount of funds needed for in-home family preservation services. In their 66th Report the Defendants

acknowledged the IVA concerns that an analysis has not been completed: “Options are being considered for completing an analysis of the allocation by identifying the number of families served over time.” (Deft’ 66<sup>th</sup> report, p. 22). However, it does not appear that an analysis was conducted. Limited information is provided regarding the number of staff dedicated to Family Preservation Services, approximate number of families served during FY’20 and FY’21; and funding available from different sources. There is no analysis of the needs of the children and families that come to the attention of BCDSS included, just a list of what types of expenditures may be covered. No other data or documentation is provided to support the assertion that “BCDSS/DHS agree that the amount of funding provided is sufficient to meet the individual needs of families and prevent removal.” (Defendants’ 67th Report, p. 40.)

2. *The Secretary shall include funds in the DHR budget proposal that are sufficient, in the Secretary’s judgment, to ensure that services and assistance are available for all children (and their families) who come to BCDSS’s attention as being at risk of placement into OHP or who are in OHP and have permanency plans of reunification with their families, and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: In Compliance

IVA response: Not in compliance for the same reasons stated in previous IVA reports

The IVA reiterates the response provided in the response to previous reports: For this Additional Commitment, Defendants provide no justification or documentation for explaining why the \$4 million in super flex funds is sufficient to meet the requirements of this Additional Commitment. The amount allocated by DHS to BCDSS for flex funds has remained at “over \$4 million” since they began reporting on this Additional Commitment for the 63rd reporting period (July - December 2019) and through the 67th reporting period (July 2021 - December 2021) without providing documentation of the basis for this amount being sufficient.

3. *DHR shall contract for a formal evaluation of the efficacy of its family-centered practice initiatives. This evaluation shall be completed within two years of the signing of this Consent Decree. This contract is subject to any required approvals by the Department of Budget and Management and the Board of Public Works. In addition, DHR/BCDSS shall routinely collect data on the efficacy and safety of its practices in utilizing family-centered practice and team decision-making to avoid the removal of children.*

Defendants: No clear claim of compliance.

IVA response: Not in compliance.

Defendants attached to their report a document titled “Evaluation of the Integrated Practice Model in Maryland, SFY Semi-Annual Report, July 1, 2021- December 31, 2021” (hereinafter referred to as “Evaluation”). According to the report, “Family-Centered” would not in and of itself constitute a practice model but rather is a core principle of Maryland’s seven-principle Integrated Practice Model, introduced in 2019. The purpose of this report was to “evaluate the utilization and effectiveness of Family Team Decision Meetings (FTDMs) as a fundamental strategy of the new Integrated Practice Model.” (Evaluation, p. 7) It is unclear whether the evaluation of FTDMs is intended to evaluate the efficacy of all of the principle of “family-centered” or only a portion.

This additional commitment requires collection of data on *“the efficacy and safety of [DHR/BCDSS] practices in utilizing family-centered practice and team decision-making to avoid the removal of children.”* The portion of the evaluation dealing with outcomes of FTDMs is based upon data from local department of social services self-reporting. (Evaluation, pp. 31-35). However, according to Appendix B of the evaluation, Baltimore City did not submit any data for the entirety of the reporting timeframe. (Evaluation, p. 58). As a result, this evaluation cannot reasonably be considered to meet the requirements of this additional commitment.

4. *BCDSS shall continue to provide opportunities for youth in OHP to meet with one another and with the BCDSS Director, other high-level officials, and providers of youth services to talk about problems and needs for children in OHP and to develop effective ways to provide opportunities to express concerns and report problems. With the assistance of youth, DHR shall develop a handbook for youth exiting OHP that provides information on available community resources.*

Defendants: In Compliance.

IVA response: Not in Compliance.

Again, as explained in previous IVA reports, the Defendants provide considerable and detailed information about programming through the Ready by 21 program. This information regarding the Youth Advisory Board and other Ready by 21 programs is helpful and the IVA is pleased to see the breadth of activities to engage and support youth in the Ready by 21 program. While these programs meet some requirements of this Additional Commitment, including opportunities for youth to meet with one another, Defendants' response is insufficient to demonstrate whether or not they meet all the requirements of this Additional Commitment. As stated in the IVA's responses to previous reports, Defendants should supply documentation of events or meetings between youth in OHP and the BCDSS director, other high-level officials and providers of services during each reporting period. Participation should not be limited to those youth on the Youth Advisory Board or involved with the Jim Casey Opportunity Passport initiative. In addition, Defendants do not address how those few youth on the Youth Advisory Board are able to represent the problems and needs of the more than 1,800 children in OHP at any one time.

Defendants did provide additional information regarding plans for a quarterly "Talk with the Director" meet-ups in an attempt "to systematize opportunities for young people to speak with Agency leadership" (Defendants' 67th Report, p. 56). They also shared plans for the development of a brochure with dates and information to participate as well as the development of a plan to publicize these opportunities to engage with the director and other higher up officials. We look forward to learning more about these plans and reconsidering this Additional Commitment for certification in future reporting periods.

5. *BCDSS shall create an intensive case management plan for youth ages fourteen through twenty who frequently are missing from placement or are experiencing multiple disruptions in placements. These youth shall receive an intensive array of supportive services.*

Defendants: Partial compliance.

IVA response: Not enough information provided to determine certification.

Defendants created an Intensive Case Management (ICM) unit and released a new standard operation procedure regarding the unit. However, due to significant staffing issues, the unit has not been fully staffed and many youth who could benefit from the services of the ICM unit are not receiving ICM services. On July 2, 2021 (falling in the 67<sup>th</sup> reporting period) the final ICM SOP was shared with child welfare staff and the IVA. Defendants' state that recently the ICM supervisor returned after an extended leave, a new Program Manager and Unit Manager began working with the team, and 3 additional workers were assigned to the team. It is unclear to the IVA at what point these changes occurred and if this is full staffing of the unit. With additional information regarding staff returns and hirings, the IVA will be able to consider certification of this Additional Commitment for the next reporting period.

6. *By September 30, 2009, DHR/BCDSS, in partnership with outside experts and advocates for children, including Plaintiffs' counsel, shall create and, thereafter, DHR/BCDSS shall implement and maintain a plan to provide comprehensive services to children in OHP to meet the goals of the children being ready by age twenty-one for successful transition to adulthood.*

Defendants: Unclear if claiming compliance.

IVA response: Insufficient information and documentation to determine compliance.

The Defendants do not offer any additional information than they provided in their 66th Report.

The IVA was unable to certify this Additional Commitment then and cannot certify it now. The

reason for the IVA's inability to certify this measure is primarily the same as stated in previous reports. Defendants still do not provide documentation of a plan to provide comprehensive services to all youth in OHP, beginning at age 14, to meet the goal of all youth being ready by age 21 for successful transition to adulthood.

7. *By December 2009, DHR shall develop and implement a program pursuant to which each child whose caregiver seeks and receives custody and guardianship from the juvenile court and meets the legal requirements for a guardianship subsidy receives such a subsidy in an amount that conforms to the requirements of federal law. Such subsidy shall continue until the child is eighteen years of age or, if disabled or attending school or training, until the youth is twenty-one years of age.*

Defendants: In Compliance.

IVA response: In Compliance.

## **2. Out-of-Home Placement**

There are ten Additional Commitments in the Out-of-Home Placement section.

1. *By December 31, 2009, DHR/BCDSS shall complete its assessment of the range of placements and placement supports required to meet the needs of children in OHP by determining the placement resource needs of children in OHP, the availability of current placements to meet those needs, and the array of placement resources and services that DHR/BCDSS needs to develop to meet those needs in the least restrictive most appropriate setting, including sufficient family placements for each child who does not have a clinical need for a non-family placement, family placements available for emergency placement needs, placements appropriate to meet the needs of children with serious mental health problems and children with developmental disabilities, and appropriate facilities and programs for semi-independent and supportive independent living. The assessment shall be conducted biennially.*

Defendants: "assessment is in the process of being updated"

IVA response: Not in compliance.

As discussed in several IVA reports, previous assessments were inadequate to meet the requirements of this Additional Commitment. In September 2020, Defendants contracted with The Institute For Innovation & Implementation at the University of Maryland School of Social Work (UMSSW) to complete a new biennial needs assessment to be completed by May 2021. A scope of work was shared with the IVA and Plaintiffs' counsel on October 15, 2020, and the draft tool was shared on February 9, 2021. Meetings were held in December 2020, February 2021, May 2021 and December 2021 with Director Stocksdale and UMSSW staff to discuss Plaintiffs' Counsel's and the IVA's concerns regarding the placement assessment timing and methodology. The completion of this assessment was delayed by more than a year, in part due to issues related to CJAMS access and documentation. In June 2022, Defendants shared with the IVA the final version of a report titled the "Baltimore City Placement Review" (hereinafter "Review") (IVA's Resp. to Defs' 67th Rep., Attachment 8)

At the June *L.J.* Problem-Solving Forum, the Plaintiffs and the IVA shared their concerns about the Placement Assessment and that it did not meet the requirements of the MCD for several reasons.

Fails to identify the placement needs of children in foster care in a quantifiable way

Lacks specificity regarding placement and service needs which does not allow for a determination to be made as to whether the availability of current placements and services meets those needs.

Does not address specific components of the Additional Commitment including least restrictive placements, family placements for all youth who do not have a clinical need for



a non-family placement; emergency family placements; placements for children with serious mental health problems and/or developmental disabilities; and programs for semi-independent and supportive independent living.

Instead of an assessment of the range of placements and placement supports required to meet the needs of children in OHP, the document offered the results of a review of 165 children using a review tool “to understand if the child’s placement was consistent with extant policy, regulations and requirements.” (Review, p. 6) The reviewers did not define “extant policy” nor did they reference the regulations and requirements they purported to apply. In addition to not defining the standard, the reviewers’ determination as to whether these 165 children had placements “aligned with policy” is not the applicable standard for the purposes of the MCD and this Additional Commitment. Furthermore, this review consisted of only information or documents that were found in CJAMS and did not include any other sources of information such as interviews. This issue was raised multiple times with the reviewers due to the well-known problems of documentation in CJAMS.

While this Placement Review does offer some information and recommendations that are useful to the Defendants, it does not meet the requirements of the MCD in substance or process.

2. *The DHR Secretary shall include in the DHR budget proposal funds that are sufficient, in the Secretary’s judgment, to secure and maintain the array of placement resources and supports needed for children and youth served by BCDSS (including those needed to support the stability of placements and the ability of caregivers to meet the needs of children in OHP and to avoid placement of children in congregate care) and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: Awaiting completion of a new Placement Needs Assessment, contract in place

IVA response: Not in compliance.

Without an adequate biennial assessment as required by Additional Commitment 1, Defendants cannot comply with Additional Commitment 2.

3. *BCDSS shall provide stipends to emergency shelter care homes even in months in which children are not provided care to assure that such homes remain available for emergency placements. Should BCDSS determine that this provision is not necessary to achieve the outcomes of this Consent Decree, BCDSS will propose a modification to this Consent Decree about which the parties will negotiate in good faith. The Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary's judgment, to meet these requirements and, if included in the Governor's budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: Partially in compliance.

IVA response: Not in compliance.

Since the 55<sup>th</sup> reporting period, no such emergency shelter care homes have been reported as being on retainer in associated Measure 38. In reporting on this Additional Commitment Defendants claim to have “identified and approved homes that accept emergency placements, a category of home approval signifying a caregiver’s willingness to be an emergency resource.” (Defts’ 67<sup>th</sup> report, p. 59). Yet, none of these emergency home placements are on retainer as evidenced by reporting on the corresponding measure. Defendants further state that a home with a placement structure of “emergency foster care” in CJAMS is eligible “for a higher rate when children are newly placed in foster care.” However, no information is provided regarding the number of homes designated as emergency foster care, or if any of these placements have received a higher rate following an emergency placement.

As stated in the Additional Commitment, if BCDSS does not believe that this provision is necessary to achieve the outcomes of the MCD, they will propose a modification to the decree. If BCDSS does not intend to comply with this Additional Commitment, they should seek the modification rather than continue to simply report that zero homes are on retainer or that emergency foster homes are not a suitable placement for youth that are experiencing overstays in DSS offices or hospitals.

4. *Within ninety days of this Consent Decree, DHR/BCDSS shall issue an RFP and shall provide funding sufficient to operate a kinship caregiver support center(s) which includes: provision of resource information and support services to caregivers; the development and maintenance of a website; transportation assistance to referrals, activities and appointments related to the care of children; staff training; training for caregivers; and the development and support of a statewide network of support groups for kinship caregivers. This contract is subject to any required approvals by the Department of Budget and Management and the Board of Public Works.*

Defendants: “actively committed to the creation of a Kinship Resource Center”

IVA response: Not in compliance.

More than a decade after the signing of the MCD, Defendants have begun making progress on the creation of a Kinship Resource Center. This project is not being developed through an RFP but rather through resources and staff at BCDSS. The creation of a “brick and mortar” Kinship Resource Center was delayed due to COVID restrictions, but a webpage on kinship care was added to their DHR website while planning for the opening of a brick and mortar center continued. It is not known to the IVA how kin providers are made aware of this information or if they have been able to access additional services as a result of the information included on this webpage. In addition, there are a number of other services required by this provision that do not require a “brick and mortar” center – *“transportation assistance to referrals, activities and appointments related*

*to the care of children; staff training; training for caregivers; and the development and support of a statewide network of support groups for kinship caregivers.*” No new additional information or documentation of these services has been provided to the IVA for review.

Following the creation of the website, a “soft opening” of the Kinship Support Center occurred in February 2022. Since then, only DSS staff have been able to visit the center where they can meet with the kinship navigator and gather information to provide to kin caregivers. Once this center is open to the public (anticipated in the fall of 2022) and the IVA is able to assess the services provided to kin, a decision will be made regarding certification. The earliest this will happen is the 69th reporting period (July 1 - December 31, 2022). The IVA looks forward to learning more about the Kinship Support Center, the Kinship Navigator, the issues they see among kin caregivers and how their work is helping the agency to achieve their goal of placing more children with kin caregivers with sufficient support to help make those placements stable and, if needed, permanent..

5. *DHR shall set the Semi-Independent Living Arrangement rate at no less than 95 percent of the foster care payment rate for teens by July 1, 2009 and shall make adjustments annually thereafter to match increases in the foster care rate as included in the budget. To satisfy this requirement, the Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary’s judgment, to meet these requirements and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: In compliance.

IVA response: In compliance.

As per the Ready by 21 Policy Manual, Defendants apparently are in compliance with this requirement. As Defendants have acknowledged, however, the governing regulations

(.07.02.10.15.B(3)) and policy releases for resource home payment increases (most recently, SSA 19-16 (5.28.19) do not reflect this requirement and need to be updated to guarantee raises in the SILA rate when resource home rates are increased. Defendants have provided no information about when they intend to promulgate the new regulations.

6. *DHR shall set the foster care payment rate at no less than the Foster Care Minimum Adequate Rates for Children (“MARC”)[I]<sup>1</sup> standard. Until the MARC standard, as adjusted for cost of living, meets the foster care payment rate currently in effect for FY 2009, DHR shall not lower the foster care payment rate below current levels. To satisfy this requirement, the Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary’s judgment, to meet these requirements, and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly. The Secretary shall include funds annually in the DHR budget that are sufficient, in the Secretary’s judgment, to modify the foster care payment rate to reflect a COLA adjustment and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: No claim of compliance.

IVA response: Not in compliance.

The Defendants failed to address the concerns raised in the IVA’s previous reports regarding this Additional Commitment. In order to meet the MARC and maintain it, Maryland should be providing an annual increase matching the increase in the cost of living. Yet, despite the fact that the cumulative rate of inflation has been 15.8% between 2019 to 2022 (usinflationcalculator.com, accessed 9/14/22), there has not been an increase in the public foster care board rate since FY2019 when there was a 1% increase. In their 66th Report, Defendants stated that an increase in the foster care board rate was planned for January - June 2022. However, no such increase appears to

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<sup>1</sup> See University of Maryland School of Social Work, “Hitting the M.A.R.C.: Establishing Foster Care Minimum Adequate Rates for Children” (October 2007) (attached as Exhibit 2 to the MCD). [This is the original footnote from the MCD.]

have occurred. Defendants state that private agency providers received an increase in 2022 but do not provide any explanation for why the public foster care board rate was not increased. Given the current rate of inflation, this should be a priority.

7. *By September 2009, DHR/BCDSS, with the assistance of individuals knowledgeable about the issues, shall study and develop a plan to address the particularized needs of unlicensed kinship care providers for children in OHP, including remediation of problems discouraging or prohibiting licensure.*

Defendants: Partial compliance.

IVA response: Not in compliance; lack of documentation.

See discussion above regarding Additional Commitment 4 (Kinship Resource Center). The Defendants report that through “a partnership with ACEF, a kinship mapping process was completed that included focus groups” and that the “findings supported the development of a work plan to guide the work of identifying, approving, and supporting kin.” (Def’t’s Report, p. 63). However, no documentation of this process, the focus groups or the work plan has been provided to the IVA. Furthermore, as stated in the IVA’s 67th report, only 25% of kin providers are licensed and the Defendants do not address this issue at all in their response. The IVA requests that the Defendants provide documentation related to this Additional Commitment as soon as possible so that the IVA may assess it for the purposes of compliance with this Additional Commitment. The IVA looks forward to learning more about particularized needs of unlicensed kin providers, how these needs were determined, as well as the plan to provide support and services to kinship care providers as the agency focuses on the goal of placing more children with kin.

8. *To meet the requirements of Outcome 4 (as defined) of this Section to provide funding for child care, DHR/BCDSS shall continue without interruption to provide funding for child care to caregivers to at least the extent required by DHR Policy SSA 08-17 (attached as Exhibit 1).*

*Defendants agree to extend the provision of child care to include before- and after-school care, vacation and holiday care, and sick day care, as needed, for all children ages twelve and under, but only to the extent funds are available from savings generated through the documented reduction in the use of congregate care. To satisfy this requirement, the Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary's judgment, to meet these requirements and, if included in the Governor's budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defendants: In compliance.

IVA response: In compliance. The IVA has no information that caregivers needing child care have been denied access to the necessary funding.

9. *By September 30, 2009, DHR/BCDSS shall provide documentation of policies and implementation of policies for ensuring that children in OHP who are expecting a child or who are parents receive services and assistance appropriate and sufficient to assist the child to acquire parenting skills.*

Defendants: "continues to work to meet this commitment"

IVA response: Insufficient information and documentation to determine compliance.

For the same reasons stated in the IVA's Additional Commitments Appendix to the 66th report, the IVA is unable to determine compliance. Defendants need to produce reliable data on the number of youth who are pregnant and parenting (both mothers and fathers) at any given time. Defendants do not provide information about or documentation of any actual policies that outline and ensure the services. IVA requested and received a copy of the "Expecting and Parenting Supervision Addendum Form" that Defendants reference. However, Defendants do not explain how this supervision addendum form, alone or as a part of other practices and policies, results in

ensuring that pregnant and parenting youth receive the services needed to acquire parenting skills.

*10. By September 30, 2009, DHR/BCDSS shall provide documentation of policies and implementation of policies for ensuring that the input of children and caseworkers was considered in the reassessment, recertification and relicensing of a placement.*

Defendants: “BCDSS continues to explore with the IVA other methods to meet this commitment.”

IVA response: Not in compliance.

Defendants provide no documentation of policies or implementation of policies for ensuring such input. Defendants state that Resources and Support workers gather information from children and children’s caseworkers about the care received during the annual reconsideration of foster homes. They acknowledge that they do not have a system to track and document the information that they receive but are exploring use of the CJAMS provider record as a place to document this information and feedback.

### **3. Health Care**

There are four Additional Commitments in the Health Care section.

*1. By June 2009, BCDSS will implement the BCDSS Health Care Initiative for all children newly entering OHP and all children in OHP with complex medical needs. Defendants shall provide Plaintiffs copies of the standards developed by the Medical Director as required in Definition C (2) of this Section.*

Defendants: In compliance.

IVA response: In compliance.

*2. By March 2009, BCDSS shall establish and thereafter maintain a Health Care Advisory Council, including medical experts and advocates for children from outside BCDSS,*



*DHR, and the Department of Health and Mental Hygiene, to provide guidance on implementation of the requirements of the BCDSS Health Care Initiative.*

Defendants: In compliance.

IVA Response: In compliance.

During the reporting period, the Health Care Advisory Council continued to meet quarterly. With the creation of a charter and new members added to the Council in the fall of 2020, Defendants met the requirement for council composition, and IVA can again certify the Additional Commitment for this reporting period.

*3. By August 2009 and annually thereafter, BCDSS/DHR, in consultation with the medical director and the Health Care Advisory Council, shall develop a plan, a timetable, and a funding strategy for inclusion in the FY 2011 and subsequent budget requests funding sufficient in the Secretary's judgment to accomplish full implementation of the requirements of the BCDSS Health Care Initiative for all children in OHP.*

Defendants: In compliance.

IVA response: Partial compliance

As stated in the IVA's review of the Additional Commitments for the 66th reporting period, Defendants addressed IVA concerns regarding inadequate funding with the implementation of a new five-year contract with MATCH on July 1, 2020. This contract includes an expanded scope of work and a significant increase in funding. With these additional resources the IVA had hoped to see an increase in compliance rates for the health care measures and improved health outcomes for children in foster care. The IVA will continue to monitor for full implementation of the expanded MATCH program including health-related documentation in CJAMS.

The Defendants have not provided any documentation to support their claim of compliance related to "consultation with the medical director and the Health Care Advisory Council." (Defts' 67th

Rep., p. 65). As members of the Health Care Advisory Council, the IVA and Plaintiffs' counsel have not been a part of consultation on a plan, timetable or funding strategy to accomplish full implementation of the requirements of the Health Care section of the MCD.

4. *By December 31, 2010, DHR/BCDSS shall operationalize a system to meet the mental health needs of children in OHP. The system will include access to mental health screening and assessment as well as a continuum of treatment services designed to secure ongoing treatment that meets the needs of children in OHP. DHR/BCDSS will seek the advice and input from the Health Care Advisory Group in the development and implementation of this system.*

Defendants: "commitment is an ongoing effort"

IVA response: Not in compliance.

Defendants reference their Behavioral Health Plan updated at the end of June 2021. The IVA had voiced concerns about the inadequacy of the plan in previous reports to the court and directly to the Defendants. There have been some efforts made towards the goal of improving mental health care including: the hiring of mental health navigators, expanded hours of the consulting psychiatrist (as of July 1, 2020); and the expanded availability of the BCARS program for crisis response. Additionally, a subcommittee of the Health Care Advisory Council has been meeting to discuss the mental and behavioral health needs of children in foster care. It is the stated goal of the agency to use the information provided at these meetings as well as the input and expertise of the various committee members to develop recommendations for the agency as they develop the mental health care system for children and youth in foster care.

However, the impact of these steps on securing ongoing treatment that meets the needs of children in OHP has yet to be demonstrated. Furthermore, significant gaps remain in the scope of the plan and services. Defendant DHS' failure over the past decade to accomplish the promised rate reform,

which would separate the payment of board costs to private foster care agencies from the payment for services such as mental health, continues to have a negative impact on meeting the goals of this Additional Commitment and, more importantly, the needs of the children in OHP.

Lack of quality mental health care services and continuity of services for children, particularly for those who experience placement instability, was again discussed at an *L.J.* Problem-Solving Forum held on October 14, 2021. At the forum, the Defendants proposed the creation of a program to provide direct services to foster children and youth. Following the forum, Director Stocksdale convened a small group including the IVA, Plaintiffs' counsel, DHS/DSS staff, and Behavioral Health Systems Baltimore (BHSB)<sup>2</sup> and to discuss this proposed program. This group met regularly over several months in the first part of 2022. Plaintiffs' counsel and IVA were given the opportunity to offer input into program elements and requirements. On May 11, 2022 Request For Proposals (RFP) was released by BHSB, entitled "Mental Health Services for Children in Out-of-Home Care." A copy of this RFP is attached to the IVA's Response to Defendants' 67th Rep. as Attachment 9.

This RFP states:

BHSB is seeking between one and four qualified Outpatient Mental Health Centers (OMHC) to employ a total of 20 licensed mental health providers to deliver a continuum of mental health services for children, youth, and their families involved with the Baltimore City Department of Social Services (BCDSS). . . . The continuum of services will include prevention, early identification and intervention, crisis response, mental health treatment services, and access to psychiatric services.

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<sup>2</sup> Behavioral Health System Baltimore, Inc. (BHSB) is a non-profit organization tasked by Baltimore City to manage the city's public behavioral health system. As such, BHSB serves as the local behavioral health authority for Baltimore City.

The selected OMHC(s) will provide home-based, community-based, and office-based mental health services using evidence-based practices (EBPs).

The budget for this project is \$1.9 million with an expected service term of October 1, 2022 – June 30, 2023, with options to renew annually pending availability of funding and performance. All selected providers will need to undergo training in the newly developed “Baltimore City Foster Care Clinician Curriculum.” This curriculum is being developed by Dr. Kyla Liggett-Creel of the University of Maryland School of Social Work. This curriculum will be grounded in youth and family voice, implementation science, and will guide and support clinicians to work with children, youth and families involved in the child welfare system. It will provide a culturally relevant and responsive approach to address the needs of the BCDSS community. The curriculum will prepare clinicians to deliver effective clinical services to address the immediate and long-term effects of child maltreatment and involvement with the child welfare system. (RFP, p. 5). However, the IVA recently learned that training on this curriculum will not begin until January 2023, three months after the start date of the new program which will begin accepting referrals on October, 1, 2022 (which coincides with the 69th reporting period).

Much is still to be determined about the implementation, administration and assessment of the new program, and the IVA will continue to monitor the development and implementation of this program for the purpose of compliance with this Additional Commitment.

#### 4. Education

1. *By September 2009, Defendants will develop an implementation plan reasonably calculated to produce compliance with the education requirements of the federal “Fostering Connections to Success and Increasing Adoptions Act.”*

Defendants: In compliance.

IVA response: Insufficient information and documentation to determine compliance.

In support of their claim of compliance, Defendants referenced a Memorandum of Agreement with Baltimore City that they provided with their 63<sup>rd</sup> Report. This is an important step towards compliance. However, as the IVA stated in multiple previous reports, a significant number of children in Baltimore City OHP live and attend school outside of Baltimore City. Defendants do not present any documentation of how they work with the other school systems to ensure educational stability and timely enrollment.

In their 63<sup>rd</sup> report, the IVA raised the concern that the School Placement Stabilization Memo contains a disturbing error. The memo provides, “The OOE specialist is responsible for completing the BID [Best Interests Determination] form within five business days of being assigned the case” and “[i]f a student must transfer, then the OOE specialist will enroll the youth in the new school five business days of the completion of the BID (Best Interests Determinations Form).” These provisions would appear to permit enrollment of a child in more than ten business days of entry into OHP, far longer than within the five days required by *L.J.* and Maryland regulations. The Defendants did not address this issue in their 64th, 65th, 66th and 67th reports and it is not known if this form has been amended.