L.J. v. Lopez Independent Verification Agent

CERTIFICATION REPORT FOR DEFENDANTS'

71st COMPLIANCE REPORT

July 1, 2023 - December 31, 2023

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Note: Defendants' six-month compliance reports, beginning with the 64th Report, and the IVA's Certification Reports can be found on the Maryland Department of Human Services website under the "Consent Decree" tab.

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EXECUTIVE SUMMARY

This is the Independent Verification Agent's (IVA) Certification Report for the Defendants' 71st Compliance Report for the reporting period of July 1 - December 31, 2023.

As of October 15, 2024, there were just under 1,400 foster children and youth in the care and custody of the Baltimore City Department of Social Services (BCDSS).[1] This report provides information about the children who are in foster care, the status of compliance with the Modified Consent Decree (MCD) measures, and the challenges that the Defendants continue to face when working with children and their families in the child welfare system. The report continues to highlight the need to generate accurate, valid and reliable data reports; reduce caseloads; and create more appropriate placements and services for children and youth with complex health and mental health needs.

More rapid improvement of the foster care system and exit from the *L.J.* lawsuit are not impossible - other states have successfully improved their systems and then exited their long-standing child welfare lawsuits. However, data is necessary to establish a baseline from which to show progress towards improved outcomes for children and families who are involved in the child welfare system. These efforts will need to come not only from BCDSS but also DHS, as local Defendant BCDSS is limited in its power to make many of the changes that may be necessary for improvement and exit.

Determining and addressing the needs of children and families in the child welfare system continues to be hampered by the lack of available data. As DHS Secretary Lopez has

[1] Maryland Department of Human Services (DHS), Foster Care Milestone Report, 10/15/24. Because of the significant lapse of time between the end of the reporting period on 12/31/2023, and the filing of the 71st Report, we are sharing updated data with the Court throughout this report.

acknowledged, CJAMS (Child, Juvenile and Adult Management System), Maryland's human services database system, is an application greatly in need of improvement. In March 2024, Defendants and Plaintiffs agreed upon certain "priority measures" for which they felt data was most urgently needed: 14 of the Exit Standards (20, 24, 29a, 57, 58, 60, 65, 72, 75, 82, 83, 99, 115, and 116) and one Internal Success Measure (9). For the first time since CJAMS was deployed in Baltimore City in 2020, Defendants established a timetable for completion of those CJAMS measures and for some of the revisions of the CJAMS application necessary to complete those reports accurately.

Unfortunately, as of the date of this report, only 4 of the 15 priority reports (65, 75, 80, and 115) have been completed by MDTHINK and validated by BCDSS Innovations staff as accurate, and Defendants remain a significant distance from the goal of producing reports that can extract accurate, reliable and valid data from CJAMS. Reports for more than 70% of *L.J.*'s measures continue to be reported by Defendants as "TBD" because report development has not been completed or because, while completed, the reports have been found to have defects or need enhancements to produce accurate, valid and reliable data. In addition, reports for which data is obtained from the Quality Service Reviews and from some other sources are not currently certifiable as accurate, valid and reliable.

One highlight since the last report is BCDSS' continuing work towards becoming a "Kin First" agency and to infusing a kin-focused culture at BCDSS. This goal is supported by efforts at the state level through waivers of non-safety related standards for kin licensing, a provisional licensing process for new kin providers, the enactment of new kin-related legislation, and most recently the release of new kinship licensing regulations. This work is necessary to help BCDSS reach their twin goals of increasing the kinship placement rate to 50% and licensing 90% of their

kin providers (who then will receive financial support comparable to non-relative foster parents). Kin providers are further supported by the BCDSS KinCare Center.

Yet, significant challenges remain. One of the most critical issues facing BCDSS is caseloads which remain unacceptably high. As of the end of October 2024, 75% of caseworkers had a caseload above the required maximum of 12 children.[2] While hiring has increased, there remains little end in sight to the hiring and retention challenges in child welfare. Defendants need to consider other personnel additions and supports as well as broader solutions such as job redesign and organizational change.

Due to the lack of available appropriate placements, more children have spent multiple nights in BCDSS' office buildings and in hotels for weeks and months on end. Other children remain in hospitals long past the time they are ready for discharge or in highly restrictive placements long after they are ready for a less restrictive setting. Many of these youth are rejected again and again by therapeutic foster care (TFC) providers - all licensed by DHS - who are unwilling to accept teenagers or who do not have homes willing to accept them. Teenagers and young adults between the ages of 14-20 made up 40% of the BCDSS foster care population as of October 15, 2024.[3] This issue must be addressed at the state level as the DHS and its partner state agencies are responsible for recruiting and licensing all TFCs and congregate care placements such as group homes and residential treatment centers.

For the 71st reporting period, Defendants request certification for the following Exit Standards: Measures 48, 52, 65, 121, 125 and 126. The IVA can certify the reported results for Exit Standards 48, 121, 125 and 126 as accurate, valid and reliable.

[2] DHS, *L.J.* Measure 115A monthly report for October 2024, downloaded 11/25/24.
[3] DHS, Foster Care Milestone Report, 10/15/24.

IVA CERTIFICATION REPORT FOR

DEFENDANTS' 71st COMPLIANCE REPORT

I. INTRODUCTION

This is the IVA's Certification Report for the Defendants' 71st Compliance Report covering July 1, 2023, to December 31, 2023. Defendants Baltimore City Department of Social Services (BCDSS) and Maryland Department of Human Services (DHS) provided their 71st Report to the IVA and Plaintiffs on September 18, 2024, more than eight months after the end of the reporting period.[4] The delayed submission of reports to the IVA has been raised repeatedly with Defendants and in our reports to the court.

Pursuant to the Modified Consent Decree (MCD), Part One, Section II. J,

> Every six months, Defendants shall submit to the Court, with a copy to the Plaintiffs, a report addressing their performance under the Internal Success Measures and Exit Standards and compliance with the Additional Commitments of Part Two of this Decree, based on data reflecting performance for the six-month period covered by that report. The report shall contain a certification by the Independent Verification Agent as to the accuracy of the report or statement by the Independent Verification Agent of the portions of the report that are not certified and the reasons why they have not been certified.

The responsibilities and activities of the IVA are described in the MCD, Part One, Section II. A. - D. They read, in part:

> B. Verification activities will have two key functions: (1) to provide accurate, independent information to the Court and the parties about system performance to implement the requirements of this Decree; and (2) to provide feedback to Defendants that supports self-correcting measures and ongoing quality improvement by Defendants.

[4] While the MCD does not specify a timeline for Defendants' report submission following the end of a reporting period, the length of time between the end of the reporting period and the submission of the report to the Plaintiffs and IVA continues to be excessive for a six-month reporting cycle. In this case, Defendants' report for the 71st reporting period was not provided until almost three months into the 73rd reporting period. This delay results in the IVA reviewing data for certification that is over a year old when the IVA begins work on the certification report. This issue has been raised repeatedly in previous IVA reports and continues to be of concern.

…

> C. The Independent Verification Agent shall be authorized to verify that: (1) the data and other information reported by Defendants are accurate, valid, and reliable; (2) the measures and methods used by Defendants to report data and other information are accurate, valid, and reliable; (3) Defendants have in place sufficient quality control and review processes to verify accurately and regularly the accuracy of data provided through its management information systems; and (4) Defendants' case review process is accurate, valid, and reliable.

In their 70th Report, Defendants took a significant detour from their past reports and the *L.J.* requirements by focusing not on the requirements of the MCD but on non-*L.J.* reports of BCDSS "outcome" data from other DHS-generated reports ("Social Services Administration Headline Indicators" and the "Child and Family Services Review (CFSR) for [federal Department of] Health and Human Services.") The Defendants have taken the same detour for the 71st Report.

These other reports are not the data the Defendants agreed to produce for the MCD and lawsuit exit. The IVA is not tasked with reviewing the accuracy, validity and reliability of these reports. And, without access to the raw data and detailed business requirements, the IVA cannot verify their accuracy, validity and reliability.

Two additional facts should be considered as one reads the information provided from these non-*L.J.* reports:

1. The SSA Headline Indicators rely on data drawn from Defendants' case management system, CJAMS. As detailed in prior reports, there continue to be problems with the CJAMS application, and the reports created to extract data from CJAMS. The IVA has no way to validate the accuracy of the data presented.
2. The 2023 CFSR reviews, from which the data provided on pp. 11-12 of the 71st Report is drawn, consisted of 26 foster care cases, a very limited sample given that

> approximately 2,000 children were in Baltimore City foster care in 2023.[5] The report itself acknowledges the limitations of the data: "[T]his sample of cases may or may not be representative of Baltimore City's entire child welfare population." (2023 CFSR report, p. 5).

This is not to say that there have not been improvements in the foster care system since 2009. However, under the MCD, Defendants are to report on the MCD outcomes and their related measures. The reports presented by the Defendants may serve as additional sources of information to determine areas of strength and weakness, thus helping to prioritize some measures of the MCD, but these reports do not meet the requirements of the MCD.

II. BCDSS AND DHS LEADERSHIP

Since the signing of the MCD in October 2009, there have been multiple changes in leadership at the state and local levels including four DHS Secretaries and six BCDSS Directors. These changes are likely to have contributed to the lack of progress towards compliance with the MCD. At the local level in Baltimore City, there is now greater continuity as BCDSS Director Brandi Stocksdale has served in her position since November 2020. BCDSS's Innovations Unit has proved to be an especially important asset. Led by Sheritta Barr-Stanley, this unit has grown into a model for data-led practice improvement in Maryland. A strong team of data analysts and support staff have been able to work with data to assist supervisory staff to target efforts to improve practice within their teams. Given the lack of accurate CJAMS reports, this work has been particularly important.

[5] DHS Foster Care Milestone Report, 12/29/23, and BCDSS Exits Report as of 9/30/24, downloaded from Defendants' shared drive on 10/11/24. The Foster Care Milestone Report is one of a group of reports developed by MDTHINK for Defendants which provide a contemporaneous snapshot of data in CJAMS.

DHS Secretary Rafael López, Principal Deputy Secretary Carnita White, and Social Services Administration (SSA) Executive Director Dr. Algernon Studstill, Jr. continue in their roles. The SSA Deputy Director for Operations under the previous administration, Hilary Laskey, returned to the position and her role as the SSA lead for *L.J.* reports in February 2024, and the IVA was hopeful that this reorganization and the new leadership of MDTHINK would result in further progress on the completion of the *L.J.* reports. However, we were notified on September 18, 2024, that Ms. Laskey is no longer with DHS. The impact on the completion of the *L.J.* reports remains to be seen.

The MCD requires regular communication between the parties.[6] The parties resumed *L.J.* forums in early 2024, a year after the new administration took office. The parties agreed to a communications plan in April 2024, and periodic virtual meetings between the parties began again in late May 2024, more than ten months after regular communications had ceased between the parties. At this time, the IVA cannot report on the current status of the communication process because the last meetings to which the IVA was invited occurred in late September 2024 and early October 2024.

The MCD, at Part One, Section II. D also requires that:

> Subject to the provisions set forth in subsections B and C above, Defendants agree to provide the Independent Verification Agent with timely and reasonable access to (1) all individuals within the Department of Human Resources ("DHR"), BCDSS, and any successor agencies or divisions as necessary to perform its duties; and (2) all documents, data, and interested persons, within the control of Defendants and/or accessible by Defendants, that the Independent Verification Agent deems relevant to its work (including but not limited to documents and data from contract agencies or partner public agencies).

[6] See MCD, p. 7. "In addition to Forum meetings, the parties agree to hold regular communications about the Decree, compliance issues, violations, and other issues of importance to Plaintiffs."

After several years of good communication and responsiveness by Defendants to the IVA's requests for information, Defendants have not provided information the IVA needed to respond fully to Defendants' 71st Report. After receiving the report on September 18, the IVA submitted an "IVA Document and Data Request" (Att. 1) on September 30, 2024, but did not receive a response until November 20, 2024, when in the last stages of preparing this report. (Att. 2). In addition, Defendants' response did not address three of the requests and did not answer with any specificity the majority of the IVA's inquiries for the source of specific data included in Defendants' 71st Report, and the data that was provided, particularly about kinship care, was contradictory.[7]

III. *L.J. V. LOPEZ* AND THE CHILDREN IN DEFENDANTS' CUSTODY

While the IVA is responsible for verifying that Defendants' data is valid, accurate and reliable, and conversations frequently center around data, it is essential to remember that behind the data are children who often have experienced neglect and abuse compounded by the trauma of removal from their families. The circumstances of removal may be different for each child, but all have their own strengths and needs, and the plans to ensure their well-being and for exit from the foster care system should be determined by those strengths and needs.

[7] For example, the IVA asked about the source of data for the chart on p. 15 of the 71st Report. The chart indicated that the percentage of children in kinship care at the end of 2023 was 38.04%. However, the data in the folder to which Defendants' response referred contained a spreadsheet showing that the percentage of children in kinship care on 12/19/23 was 32.54% and on 1/2/24 was 33.03% (Kinship Weekly Trends LJ FY2024).

There were 1,391 children in the Baltimore City foster care system as of October 15, 2024, made up of the following age and racial groups[8]:

Age Group	% Total Children	% Black	% White	Other
0-2	19% (259)	76%	21%	3%
3-5	15% (207)	84%	14%	2%
6-13	27% (375)	86%	1%	2%
14-17	22% (311)	85%	14%	2%
18-20	17% (239)	85%	12%	3%
All	**100% (1,391)**	**83.4%**	**14.3%**	**2.3%**

Three-quarters of children and youth in BCDSS foster care reside in family (relative and non-relative) settings. The remainder are in congregate care, independent living or other living arrangements (including secured detention and on runaway).

Placement Type	October 15, 2024[9]
Family (public resource family, treatment foster home, pre-adoptive home)	42%
Relative (all kin placements and trial home visits with parents)	37%
Congregate Care	9%
Independent Living	7%
Other	5%

[8] Foster Care Milestone Report 10/15/24. Because of the significant lapse of time between the end of the reporting period on 12/31/23, and the filing of the 71st Report, we are sharing this updated data with the Court.
[9] Foster Care Milestone Report, 10/15/24.

As to the length of children's stay in foster care, Defendants acknowledge (71st Report, p. 8) that they continue not to meet the federal targets for achieving permanency for children:

Children in foster care for:	Federal Permanency Targets	BCDSS Permanency Rates
12 to 23 months	43.8%	25%
24+ months	37.3%	24%

Of the children in OHP on October 15, 2024, 35% had been in foster care for three or more years.[10] For the children who exited OHP in Baltimore City in Federal Fiscal Year (FFY) 2024 (October 1, 2023 - September 30, 2024), the average length of stay was 36 months.[11] In FFY 2024, 81 youth "aged out" of foster care at age 21. 93% of those youth were Black.[12]

IV. MEASURES, DATA COLLECTION AND REPORTING

The MCD is divided into two parts: Part One addresses the scope of the case and the procedural requirements, including the role of the IVA, data access, reporting requirements, communication and dispute resolution and the process for obtaining court review and case exit.

Part Two of the MCD is divided into five substantive sections - Preservation and Permanency Planning, Out-of-Home Placement (OHP), Health Care, Education and Workforce. These sections have 28 required Outcomes. (Att. 4). All of the Outcomes are goal-oriented and substantive, e.g., family preservation where possible; case planning to meet children, family and caregiver needs; placement stability and safety; adequate healthcare; supports to meet educational needs, and sufficient staffing to meet those requirements. Compliance with the Outcomes is

[10] Foster Care Milestone Report, 10/15/24.
[11] BCDSS Exits Report (as of 9/30/24), downloaded 10/11/24.
[12] Data combined from Foster Care Milestone Report, 10/15/24 and BCDSS Exits Report as of 9/30/24, downloaded from Defendants' shared drive on 10/11/24.

measured by a total of 40 Exit Standards. Fifty-nine Internal Success Measures (ISMs) are subsets of the Exit Standards or additional data points agreed to by the parties.[13] In order to exit the MCD, Defendants must be certified by the IVA as compliant with the Exit Standards for each of the MCD Outcomes for three consecutive reporting periods.

Measure instructions set out what activity is required for each Exit Standard and Internal Success Measure, and how that measure will be tracked and documented in order to produce the required compliance data for reporting. While the data for most of the measures come from either quantitative or qualitative sources, the parties and the IVA have agreed that a small number of measures require both quantitative and qualitative measurement. For these measures, there are subparts "a" and "b" for quantitative and qualitative compliance levels, respectively, both of which must meet the required compliance levels for certification.

Prior IVA reports have summarized the history and challenges in developing measure instructions. See, e.g., IVA Response to Defs.' 66th Report, p. 19. The parties and the IVA completed the current measure instructions in May 2021, and set a goal of January 1, 2022, for implementation of reporting for all the measure instructions. That goal is far from being met nearly two years later.

A. Status of *L.J.* Reports

The IVA has detailed in prior reports the history of attempts to produce accurate, valid and reliable reports for *L.J.* compliance. See, e.g., IVA Response to Defs.' 69th Report, pp. 8-12. Between the 70th and 71st reports, almost no progress was made. As a result, in the 71st Report, more than 70% of the *L.J.* measures continue to be reported by Defendants as "TBD" either

[13] While the decree includes 86 ISMs, 27 of them are duplicates of Exit Standards without the compliance goals, e.g., Exit Standard 72 requires that "95% of children have a monthly caseworker visit in their residence;" Internal Success Measure 71 requires reporting on the "Percentage of children who have monthly caseworker visits in their residence."

because they have not yet been fully developed, because they have been developed but are not yet accurate, or because the process used to gather the data has been found to be unreliable or invalid.

B. Data Sources

The data for reporting on compliance with the Exit Standards and Internal Success Measures comes primarily from three sources: (1) CJAMS; (2) QSR (Quality Service Reviews), intensive case reviews of a stratified random sample of children's cases; and (3) other miscellaneous sources, including data compiled by BCDSS legal services and by the human resources, and training departments, and Innovations, BCDSS' data division ("QA"). About one-half of the measures are reported from CJAMS, one-fourth from QSR, and one-fourth from the other sources.

1. CJAMS

The Child, Juvenile, and Adult Management System (CJAMS) is Maryland's human services database system developed by MD THINK under the auspices and supervision of Defendant DHS. MD THINK has developed or is in the process of developing at least 70 separate reports from CJAMS. Defendants remain a significant distance from the goal of producing a full set of reports that can extract accurate, valid and reliable data from CJAMS.

In March 2024, Defendants and Plaintiffs agreed upon certain priority measures for which they felt data was most urgently needed: 14 of the Exit Standards (20, 24, 29a, 57, 58, 60, 65, 72, 75, 82, 83, 99, 115, and 116) and one Internal Success Measure (9). For the first time since CJAMS was deployed in Baltimore City in 2020, Defendants established a timetable for completion of those CJAMS measures and for some of the revisions of the CJAMS application necessary to complete those reports accurately. While many of the required application revisions were completed within a few months, progress on completion of the development of the reports has

been much slower. In part, that is because, to complete the 15 priority reports, a total of 28 separate reports[14] have to be created. In addition, development of some of the reports have had to await decisions on or changes to SSA regulations or policy or discussions with Plaintiffs about making some changes to measure instructions.

As of the date of this report, only 4 of the 15 priority reports (65, 75, 80, and 115) have been completed by MDTHINK, and validated by BCDSS Innovations staff as accurate. As to the remainder of the CJAMS reports, most, while completed at one time, have been found to have defects or need enhancements to be accurate. In addition, true accuracy, validity and reliability remains unattainable for some of those reports until additional necessary "fixes" to CJAMS are completed.

Furthermore, in order to get accurate, valid and reliable data *out* of CJAMS, the data must be entered *into* CJAMS properly and completely. Staff continue to be challenged in using CJAMS to do such critical tasks as creating case plans and service plans, uploading important documents, and timely and sufficiently documenting conversations and meetings. These problems must be resolved if Defendants are to report accurate, valid, and reliable data that will permit the IVA to certify compliance with the *L.J.* measures. Given the high caseload levels, it is an ongoing challenge for workers to fully document CJAMS. (See discussion of Caseloads, below). It appears that this problem can be resolved only by the hiring of additional staff or other supports or by restructuring to meet the critical responsibility of documentation in CJAMS as well as making CJAMS more "user-friendly."

[14] The Exit Standard sub-reports are included here inside the parentheses following the Exit Standard: 20 (20A, 20B, 20C, and 20D); 24; 29a; 57 (57A and 57B); 58 (58A and 58B); 60; 65; 72; 75; 82; 83 (83A, 83B, 83C and 83 Summary); 99 (95, 96 and 99); 115 (115A, 115B-1, and 115B-2); and 116 (116A and 116B).

2. Quality Service Reviews (QSR)

The QSR provides a case-based appraisal of frontline practice created for human services agencies to improve results.[15] Cases for review using the QSR system are selected through a stratified random sampling of cases. The QSR uses a standardized protocol with a number of indicators to measure and rate[16] the current status of a child and the child's family in key life areas and to appraise performance of key service system practices for the same child and family. In previous reports, the IVA has provided detailed explanations of the history of the QSR process at BCDSS; it was developed and implemented both for measurement of compliance with select *L.J.* measures and, importantly, for overall agency practice assessment and improvement. See, e.g., IVA Response to Defs.' 56th Report (filed November 29, 2017), pp. 2-12.

In February 2024, the IVA provided BCDSS and Plaintiffs' attorneys with a detailed review of the QSR process at BCDSS. (Attachment 5). (See also QSR discussion in the IVA's Response to Defendants' 70th report, pp. 16-18.) In the QSR review, the IVA detailed fundamental problems with the QSR practice at BCDSS. These problems included: lack of fidelity to the original model; a significantly extended time to complete a full case review; and a failure to apply the protocol as written.

As a result of these findings, the IVA concluded that BCDSS' QSR process at that time was not a valid or reliable means of measuring compliance with the relevant *L.J.* measures. However, as shared with Defendant BCDSS, this could be remedied through retraining and proper application of the protocol. The IVA also shared that updates could be made to the QSR protocol, instrument and ratings system that would reduce the amount of time spent on each case, better

[15] The QSR process was developed by the Child Welfare Policy and Practice Group, Quality Service Review Institute, Montgomery, AL and Tallahassee, FL.
[16] QSR protocol uses a 1-6 rating scale to indicate whether the status or practice indicator in question is at a level ranging from adverse to poor to marginal to fair to good to optimal.

identify practice strengths, and show better progress towards compliance with the MCD (including, as requested by BCDSS, through a change in the rating level required for compliance).

Subsequently, BCDSS hired a new Program Manager for the QSR unit and indicated its intention to continue the important work of this unit and realign it with the standard QSR timelines and protocols. Defendant BCDSS began the QSR practice overhaul and retraining with the help of Florence Racine, former head of New Jersey's statewide QSR program and a trainer for BCDSS QSR staff from 2014 - 2019. This retraining began in late spring 2024 and was expected to continue through the end of 2024 with the intention of any necessary changes being put into place so that the QSR data would be certifiable as reliable and valid for the reporting period beginning in January 2025. However, at a motions hearing held before this Court on July 24, 2024, Defendants' counsel stated that they were "probably scrapping the whole thing [QSR]" because the Defendants and the IVA could not agree on QSR's use for *L.J.* measures.[17] This was the first time that the Plaintiffs or IVA learned of any plans to discontinue use of QSR. The information provided to the court regarding disagreement about the use of QSR was inaccurate.

In subsequent conversations, Defendant BCDSS confirmed that they were not "scrapping" QSR but were looking at changes to how QSR is used to determine compliance with the MCD qualitative measures. No documentation was shared with the IVA as to the changes they would be proposing to the previously agreed upon measure instructions. At the LJ forum held on October 10, 2024, the BCDSS director indicated that she had received proposed changes from her staff and would share them once she had reviewed them. The IVA has since received only one proposed change to only one of the measure instructions for use of QSR data.

[17] "There are some [measures] that are calculated through what's called a QSR system, that -- because the defendants and the IVA can't agree on how that should be done, what the protocol should be, my most recent information is that we're probably scrapping that whole thing and having to come up with a different way to measure." Ann Sheridan, Asst. Attorney General, LJ motions hearing transcript, p. 11

Whatever the outcome of the use of QSR for measuring MCD compliance, the IVA hopes that BCDSS will continue its stated commitment to continuing to use QSR as a valuable tool for practice improvement.

3. Other Data Sources

Defendants do not provide any indication that any of the Legal Services or QA (non-CJAMS, non-QSR) reports were validated prior to inclusion in Defendants' Compliance Reports. As set out in the Data Table below, a number of those reports still do not meet the standards for accuracy, validity, and reliability.

C. Compliance Plans/Strategies for Improvement

Without baseline accurate, valid, and reliable data, it is difficult to know how much progress is being made in improving performance with MCD outcomes. However, even without a full set of data on MCD measures, Defendants know where challenges exist and acknowledge that many of the measures are not compliant with the MCD. Plaintiffs' counsel has urged the development of compliance plans, and the IVA agrees that there is enough information available to the Defendants that they can develop plans and set goals for progress in important outcome areas. The Defendants have responded with "Strategies for Improvement," which vary in quality, but, as a whole, lack sequential activities, timelines, and progress percentage goals (e.g., "increase compliance by 10 percentage periods in next reporting period"). On September 30, 2024, the IVA requested additional information from the Defendants regarding these strategies for improvement, such as the outcome of Permanency Roundtables; results of targeted recruitment for teenagers, LGBTQI+ youth, and Spanish speaking youth; and outcomes of TBRI training. In response, Defendants reported on November 20, 2024, that "[t]here is no report to provide." (Atts. 1 and 2).

Defendants should draft comprehensive improvement plans for the measures with a focus on a selection of prioritized measures that are likely to lead to improved outcomes for children and their families. They should also gather data to evaluate the efforts already made to determine whether they have been successful or not and make adjustments accordingly.

V. CRITICAL CHILD WELFARE POLICY AND PRACTICE ISSUES: CASELOADS, KINSHIP CARE, PLACEMENTS, HEALTH AND MENTAL HEALTH

A. Caseloads

High caseloads continues to be a critical issue facing BCDSS. Under the MCD, OHP caseloads are required to be "15 children (or any lower ratio required by Maryland state law)."[18] In 2006, pursuant to state law, the Child Welfare League of America (CWLA) performed a study to develop a methodology for calculation of child welfare case-to-worker ratios. CWLA determined that, for Maryland, 12 children per one foster care worker was a more appropriate caseload than 15 children due to the administrative demands placed upon the caseworkers in addition to their responsibilities to the children and families in their caseloads. (Att. 6).

As illustrated in the chart below,[19] a majority of the foster care caseworkers continue to have caseloads above even the 1:15 case level.

Caseload Data as of:	3 - 12 children	13 - 15 children	16 - 24 children
December 31, 2022	15%	12%	73%
June 30, 2023	21%	14%	65%
December 31, 2023	13%	14%	73%
June 30, 2024	27%	13%	60%

[18] MCD, Part Two, Section V., D. 1.
[19] Caseload data for 2022-2023 calculated from Foster Care Milestone Reports; caseload data for June 30, 2024 from *L.J.* Measure 115A monthly report for June 2024, downloaded 11/2/24.

The June 30, 2024, data reflects some improvement in hiring: according to Defendants' Revised Personnel Transaction Report (October 21, 2024), between July 1, 2023, and June 30, 2024, 28 caseworkers were hired for OHP. However, during that same time period, 10 caseworkers from OHP left BCDSS or transferred to another unit within BCDSS.

Continued high caseloads and caseworker turnover impact the children in foster care and their families as well as the caseworkers. 60% of caseworkers having 16-24 cases results in 73% of the children and youth in OHP having caseworkers with caseloads up to two times the prescribed level. Furthermore, staff turnover and the need to regularly rebalance caseloads results in frequent case transfers. Case transfers, in turn, impair the engagement with children and families needed to assist them in resolving problems and attaining reunification or other forms of permanency on a timely basis. Between July 1, 2023 and June 30, 2024, not including transfers to and from family preservation or for adoption and guardianship purposes, at least 500 children in OHP were transferred to new caseworkers, and, of those, 78 children were transferred to new caseworkers at least twice.[20] Not only are the high caseloads a violation of the MCD, but they, and the frequent case transfers, also make it much more difficult to resolve many of the issues discussed in this report.

B. Placement Needs and Challenges

During the 71st reporting period and well into the 72nd reporting period (January - June 2024), the lack of an adequate supply and continuum of placements for children and youth with complex needs continued to result in children and youth staying in unapproved placements, a violation of the MCD. Some children spend the night (or multiple nights) in BCDSS offices or hotels when placements cannot be found for them. Other children are placed on waiting lists for

[20] Defendants' Case Transfers Reports for July - December 2023, and January – June 2024 (downloaded 11/4/24).

weeks and sometimes months to obtain an appropriate placement. Some remain in hospitals or residential treatment centers (RTC) long after they are ready for discharge. Evidence of these ongoing problems are contained in the daily Extended Hours Reports, daily Hotel Reports and weekly Overstay/Waitlists. Some examples of the weekly Overstay/Waitlists reports include the following:

- September 13, 2024: 2 children in overstay status for hospitals, one RTC overstay and 13 awaiting placement.
- October 15, 2024: 7 children in overstay status for hospitals, one RTC overstay, and 12 awaiting placement.
- November 15, 2024: 10 children in overstay status for hospitals, one RTC overstay, and 9 awaiting placement.

Many of these youth remain on the Overstay/Waitlist for weeks and months. A 13-year-old girl was on overstay at an RTC for youth under 13 from the time she was ready for discharge in May 2024 until she was moved on November 20, 2024.

In the IVA's Response to the 60th Report (January 1 - June 30, 2018), we shared the results of an extensive review of the cases of 36 children under the age of 13 who had experienced significant placement instability, lack of appropriate placements and waiting lists for treatment programs. (Att. 7, IVA Certification Report for Defs.' 60th Report (filed June 25, 2019), pp. 16-24). We also reported on this 60th Report cohort in the IVA's 66th and 70th reports, finding that a majority of the youth remained in foster care and many continued to experience placement instability. Another review of this cohort for the 71st report finds that 21 of the 36 children remain in care as of October 15, 2024. All of these children entered foster care under the age of 13; a majority of them entered when even younger - between the ages of 5 and 10 years old. A previous

review of court petitions indicates that these children entered care due to a multitude of reasons: parental substance abuse; untreated parental mental health issues; physical abuse; abandonment; unstable housing. Rarely was the reason for entry into foster care a parent's inability to manage the behavior of their child.

An October 15, 2024, snapshot view of the placements of the 21 children remaining in foster care found: 10 are in congregate care (group homes, therapeutic groups home and RTCs), 4 are in therapeutic foster care, 3 are in corrections/detention, one is in a kinship placement, one is in a hospital[21], one is in a hotel, and one is on runaway. All of these children have been in foster care for at least five years. One youth has been in foster care for more than ten years.

Many of the 60th Report cohort youth continue to experience placement instability, appearing on overstay lists (weekly lists of children who have stayed in hospitals longer than clinically necessary), runaway notices, placement waiting lists and Extended Hours and hotel reports. Some of the youth have stabilized but remain in congregate care placements, have not achieved permanency, and have no potential permanent resource available.

Instability remains a challenge for youth who have complex mental and behavioral health needs. However, with the help of supportive caseworkers, foster parents, and appropriate, often intensive, services, long unstable youth can experience improved stability. Two youth from the 60th report cohort are examples of this:

> *D.B., an 18-year-old Black male, first entered BCDSS foster care in April 2014 at the age of 8. Following an attempt to reunify him with his mother, he was removed again from his mother in July 2016, due to physical abuse by his mother's boyfriend, his mother's failure to protect D.B. and domestic violence in the home. D.B.'s father had passed away in February 2016. The trauma D.B. has experienced from a young age is significant. During*

[21] Additional case review found that as of the drafting of this report, this youth continues to be hospitalized and was considered on hospital overstay as of October 24, 2024.

his time in foster care, he has been diagnosed with ADHD, Borderline Intellectual Disorder and multiple mental and emotional disorders including Bi-Polar Disorder, Oppositional Defiant Disorder, Reactive Attachment Disorder, and Post-Traumatic Stress Disorder. His placement history from age 10 to age 18 includes:

14 psychiatric hospitalizations of varying time periods

6 therapeutic foster care programs (some more than one once and with more than one family)

2 residential treatment centers

5 therapeutic group home stays

In March 2023, D.B.'s group home provider asked for his removal due to numerous ER visits, anger issues, property destruction and rules violations. Upon his discharge he was to be moved to yet another group home. However, BCDSS identified a therapeutic foster care program for placement. While D.B. was excited to live with a family, the adjustment was difficult, particularly given the time previously spent in group living settings. However, his foster mother, with the help of the TFC and DSS caseworkers, was patient and supportive, but also set necessary boundaries. D.B. willingly attended therapy and bonded with his foster mother and her family. He worked hard in school, a non-public special education placement, and he obtained his first part-time job where he was a valuable and well-liked employee.

Unfortunately, in April 2024, D.B. experienced a mental health crisis that resulted in two psychiatric hospitalizations. In May 2024 his foster mother gave notice that she could no longer provide care for DB (for reasons unclear from the CJAMS record), expressing her sadness about the decision and that she had seen D.B. grow during his time with her. Fortunately, the TFC provider was able to move D.B. to another family in their program. After a month in this new home, D.B. decided to instead move in with a sibling (also in BCDSS care and residing in their own apartment) who he had recently reconnected with. Although not in an approved placement, D.B. and his DSS caseworker maintained contact. After a few weeks, D.B. contacted his worker saying that he regretted his decision and asked for a new placement. His BCDSS caseworker immediately worked to get him placed back with his most recent therapeutic foster family who were happy to have him return. D.B. has been stable in this home since mid-August and has focused on his schoolwork and

mental health. He participates in the BCDSS Wellness Program, Ready by 21 activities and is enjoying school. He expects to graduate in June 2025 and is contemplating moving to an Independent Living program following graduation.

The trauma experienced by foster youth is often complex. These cases are challenging and youth with mental health diagnoses will likely experience periods of stability and improvement punctuated by periods of crisis. Establishing bonds with workers and families and providing therapeutic services can aid in recovery from these crises as they did in D.B.'s case.

B.M. is a 15-year-old Black male. He entered foster care in August 2015 at the age of 6 after his mother left him with a caretaker who was not able to care for him. Even at such a young age, B.M. experienced significant placement instability, including three psychiatric-related hospitalizations in his first six months in care. Unfortunately, B.M. has spent far more of his time in congregate care settings than in family settings. One of these group settings included a three year long stay at an RTC from August 2016 to August 2019. A review of his CJAMS record finds:

11 hospitalizations
2 residential treatment centers
3 therapeutic group homes
4 treatment foster care programs (including current placement)
2 BCDSS foster homes
1 hotel stay (4 nights)

During his time in foster care, he has been diagnosed with ADHD, Reactive Attachment Disorder, Post-Traumatic Stress Disorder, and Disruptive Mood Dysregulation Disorder. Following nearly three years of group settings (from October 2020 to August 2023), B.M. was placed again in a family setting with a therapeutic foster care provider. A Family Find assessment noted that he has faced many challenges in a family setting after spending so much time in group home settings. However, with the help of a committed therapeutic foster parent and the use of one-to-one services contracted by BCDSS, this placement has continued for 15 months. B.M. has developed a relationship with his foster mother who has

been able to continue working with him despite some difficult behaviors continuing because she sees that "he is trying." B.M. has developed strong relationships with his one-to-one providers who are able to de-escalate his behaviors, model trusting relationships and engage him in community activities. B.M. is willing to attend therapy in the community if he can see a male therapist. He likes football and video games and enjoys community outings with his one-to-ones. He is described as funny and friendly. A recent search for relatives located a cousin that would like to be a visiting resource and a lifelong connection, and B.M. is looking forward to reconnecting with her.

Defendants should work to recruit and train kin and foster families who understand the complex needs of youth in foster care, particularly teenagers, and ensure that the necessary community-based services are available to support these foster families and stabilize youth. Long overdue rate reform for therapeutic foster care providers may help in the effort to recruit new foster parents.

Children and youth in Defendants' care continue to spend multiple nights in BCDSS' office buildings rather than in homes and other licensed settings in violation of the MCD. This chart[22] demonstrates that the frequency of the practice increased in 2023 and the first half of 2024:

Report Period	# Youth staying in office building	Total nights those youth spent in office building	# Youth staying more than 3 nights in office building
Jan - June 2023	21 youth	45 nights	2 youth
July - Dec 2023	51 youth	205 nights	11 youth
Jan - June 2024	57 youth	223 nights	18 youth

Hotels also are not approved placements, and, yet, during the 71st and the 72nd reporting period, the use of hotels to house children continued, particularly for children and youth with mental health issues, teenagers with a history of running away, and other children with significant

[22] IVA compilation of "Children in the Building Reports."

physical and developmental disabilities. The practice is exorbitantly expensive, raises serious safety concerns, and is inappropriate for any long-term use.[23] This chart[24] summarizes hotel usage over three reporting period:

Report Period	# Youth staying in hotels	Total nights those youth stayed in hotels	# Youth staying more than 30 nights in hotels
Jan – June 2023	14 youth	341 nights	5 youth
July – Dec 2023	23 youth	688 nights	11 youth
Jan - June 2024	31 youth	1,691 nights	17 youth

As of the drafting of this report, the use of hotels has declined significantly. Following the motions hearing before this court in July 2024, Defendants began moving youth from hotels into various other types of placements. Unfortunately, several of these youth have now been ejected from their post-hotel placements,[25] are on runaway, or have spent nights in the BCDSS Extended Hours office. While these youth present with more complex needs and may be a particularly challenging population, the Defendants must be prepared to meet the needs of all children who enter their care and to do all they can to avoid long stays in foster care. Some of these children have suffered multiple traumas prior to entering foster care and have been further traumatized by instability in the foster care system, having been ejected or run away from multiple placements. They are further traumatized when they are rejected by multiple providers in a system that is supposed to help them. Some youth have rejected offered placements; working with those youth

[23] See Att. 8, "Housing Maryland foster children in hotels: 'unsafe situations for everyone'" (11/3/24). See also Att. 9, Baltimore Banner, "Maryland Foster Children are Being Kept Overnight in Hotels and Downtown Office Buildings" (9/15/22).
[24] IVA compilation of "Youth in Hotel Daily Reports."
[25] One provider has ejected three of the youth that were placed in its program.

to understand what the youth feel they need to be able to accept agency assistance is part of the difficult but necessary work to meet the needs of these youth.

As the Defendants have reduced the number of children in care and worked to prevent children from entering care, it is the youth with the greatest needs who may ultimately end up entering and remaining in foster care the longest. Maryland has had information and recommendations for many years that the current placement system needed substantial reformation. Appropriate and high-quality placements must be available to all children and youth who are in foster care at the time they are needed, not many days, weeks, or months later. The least restrictive family settings should always be sought first and should include individualized, intensive, wrap-around services to ensure that children and youth can remain in the community and in a family setting with their parents, kin, or foster parents. Only if their needs cannot be met in a family setting should children be placed in a more restrictive setting. Children should not have to be sent hundreds of miles away from home to out-of-state residential treatment programs to get the help they need. Defendant DHS has failed to craft and implement appropriate solutions to these long-standing placement problems.[26]

C. Kinship Care

Multiple past IVA reports have addressed in detail the importance of kinship placements and encouraged Defendants' strengthened efforts to increase the percentage of children and youth in kinship care. Kinship care provides greater stability in placement; results in improved well-being as compared to children in non-relative care; limits the trauma of removal and the

[26] For example, Maryland has failed to address concerns regarding placement and recruitment of foster parents that may be due at least in part to the stagnant foster care payment rate. Even though the cumulative rate of inflation has been 23.5% between 2019 to 2024 (usinflationcalculator.com, accessed 11/18/24), there has not been an increase in the public foster care board rate since FY2019 when there was a 1% rate 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 has occurred.

circumstances that led to removal; maintains sibling and other ties; and results in improved permanency outcomes.

BCDSS has set a goal to place 50% of all children in foster care with kin and to have 90% of those kin licensed (and therefore receiving financial support comparable to non-relative foster parents). Defendants have outlined their efforts to make BCDSS a "Kin First" agency in their report. They have published their proposed new kin licensing regulations (Maryland Register, September 20, 2024) and have announced their plan to implement the new regulations along with the necessary changes to the CJAMS provider module on December 9, 2024. BCDSS has delayed the issuance of its Kinship Standard Operating Procedure (SOP) until after the new regulations go into effect.

There is still work to be done to reach 50% placement with kin. According to the Defendants' October 15, 2024 "OHP Milestone Report," 36% of all children in Baltimore City OHP were placed with kin[27] (37% if children placed with parents are included).[28] According to that same report, BCDSS has made a more significant increase – from 31% to 66% - in the percentage of kin caregivers who are licensed and, therefore, receiving foster care funding. This number should increase further with the implementation of the new regulations which reduce the

[27] The placement categories included in the count of kin are Formal Kinship Care, Relative/fictive home, Restricted (Relative) Foster Care, the 14 of the 25 children listed as placed in Intermediate Foster Care who the IVA found were also placed with relatives, and one child in a pre-finalized adoptive home of a relative. All placement categories including the terms "Mother," "Father," and "Trial Home Visit" are included in the count of kin when children placed with parents are included.

[28] Defendants' Child Welfare Trends Report for October 2024 (Att. 3) provides two different figures for the kin placement percentage - 34% on p. 21 and 36% on p. 22. The reason for the discrepancy is unclear. Defendants' 71st Report contains a chart on p. 15, purporting to show that as of the end of 2023, the percentage of children in kin care was 38.04%. They use that chart to support their claim that Baltimore City DSS "made significant progress increasing the placement of children in out of home with kin" and that "the IVA's statement to the contrary in its response to the 70th Report" that "'the rate of kinship care in Baltimore has remained largely unchanged for years' is inaccurate." Defs.' 71st Report, p. 15. However, based upon the data files provided to the IVA on 11/20/24, the chart actually shows the percentage of children in OHP ages 0-17 in kin care, rather than all children in OHP, i.e., ages 0-20. When youth ages 18-20 are added back in to the 12/29/23 milestone report, the percentage, as the IVA had reported, is 33%, which comports more closely with Defendants' own Child Welfare Trends data (Att. 3), which showed 32% of children with kin at the end of December 2023.

requirements for kin licensing to the much more limited requirements currently in place for uncompensated "Formal Kinship Care" - criminal and child abuse background checks, home health assessment by caseworker, and caseworker assessment of the kin caregiver for suitability of placement. No longer will the extensive and time-consuming foster parent training, health department and fire department visits or the many other non-relative foster parent licensing standards be required.

With these significant upcoming changes to licensing and financial support, we hope to see the rate of kin placement continue to increase in the reporting periods ahead. As important as the rate of kin placement is the stability of the kin placement so that children are not just placed with kin but also stay with kin - for their foster care stay if reunification is the plan or, if reunification is not possible, permanently. For placement stability and permanency with kin, there must be caseworker and other supports for kin caregivers available on a timely basis. It is critical that Defendants track the data in real time and respond quickly if the kin placements are in danger of disruption. The Defendants must be prepared to make timely necessary adjustments and remove other identified barriers in order for their goals to be reached.

D. Health

Defendants' continuing poor performance in providing timely health care services to the children in OHP is an area of significant concern. Defendants contract with HCAM (Health Care Management) for the MATCH (Make All the Children Healthy) program, which is tasked with ensuring that all the health care needs of the children in OHP are met.

The required health care examinations for children in OHP in Baltimore City are the same as the requirements for children in OHP statewide based upon state regulations: an initial health screening within five business days after the child enters OHP; comprehensive medical, mental

health and dental examinations within 60 days of entering OHP; and periodic medical examinations according to the requirements of Maryland's Early Periodic Screening, Diagnostic and Treatment (EPSDT) guidelines[29] along with periodic dental examinations.[30] At this point, the IVA has determined that while not yet completely accurate, the CJAMS reports for these requirements are sufficiently reliable and valid to provide their results here.

Over the last three reporting periods since January 2023, BCDSS has not met but has stayed within a few percentage points of meeting the *L.J.* Exit Standard 95% requirements for Initial Health Screening (*L.J.* Exit Standard 75 (ISM 73)).[31]

However, other required exams have not come close to meeting state requirements or *L.J.* Exit Standard 90% compliance levels.

The trend for meeting the 60-day comprehensive examinations requirements (*L.J.* Exit Standard 82 (ISM 80) CJAMS report), [32] has been moving in the wrong direction:

Report Period	Timely Comprehensive Exams
January - June 2023	66.96%
July - December 2023	64.06%
January - June 2024	56.92%

[29] Att. 10, Maryland Health Kids Preventive Health Schedule (1/1/24), downloaded from https://health.maryland.gov/mmcp/epsdt/Documents/20%20Maryland%20EPSDT%20Schedule-01-01-2024%20(1)HealthRiskAssessment2023%20(1).pdf, downloaded 11/23/24. "The Schedule reflects the minimum standards required for all Maryland Medicaid recipients from birth to 21 years of age."
[30] Att. 11, American Association of Pediatric Dentistry, Dental Periodicity Schedule 2022, downloaded from https://www.aapd.org/globalassets/media/policies_guidelines/bp_chart.pdf, 11/23/24.
[31] *L.J.* CJAMS Reports, Measures 73/75 (Jan-June 2023, July-Dec 2023, Jan-June 2024), downloaded 11/14/24.
[32] *L.J.* CJAMS Reports, Measures 80/82 (Jan-June 2023, July-Dec 2023, Jan-June 2024), downloaded 11/14/24.

Less than one-quarter of children have been receiving an annual EPSDT examination within 13 months of the prior annual examination (*L.J.* Exit Standard 83A (ISM 81A) CJAMS report) [33]:

Report Period	Timely Annual Health Exam
January - June 2023	12.63%
July - December 2023	21.67%
January - June 2024	22.98%

Only 10% of children have received a Semi-Annual Dental Exam within seven months of the prior dental exam (*L.J.* Exit Standard 83B (ISM 81B) CJAMS report) [34]:

Report Period	Timely Dental Exam
January - June 2023	11.76%
July - December 2023	10.82%
January - June 2024	10.27%

Children ages 3 years old and younger require physical examinations more frequently than once a year in order to ensure their proper development, their receipt of all necessary vaccinations, and early detection of any health problems. The importance of young children receiving these periodic examinations on the required schedule raises special concern about this negative trend for compliance (*L.J.* Exit Standard 83C (ISM 81A) CJAMS report) [35]:

[33] *L.J.* CJAMS Reports, Measures 81/83A (Jan-June 2023, July-Dec 2023, Jan-June 2024), downloaded 11/14/24.
[34] *L.J.* CJAMS Reports, Measures 81/83B (Jan-June 2023, July-Dec 2023, Jan-June 2024), downloaded 11/14/24.
[35] *L.J.* CJAMS Reports, Measures 81/83C (Jan-June 2023, July-Dec 2023, Jan-June 2024), downloaded 11/14/24.

Report Period	Timely EPSDT Exams
January - June 2023	46.34%
July - December 2023	40.73%
January - June 2024	34.43%

Defendants must determine the reasons for so many children not receiving timely medical and dental care and work to remedy or remove the identified barriers (including receiving timely documentation from providers).

E. Mental Health

High quality, culturally responsive mental health care is essential to the well-being of children and youth in foster care. The failure to provide this care exacerbates placement problems, and the complexity of mental health issues impacts the length of time a child spends in out of home care. As discussed in their report, BCDSS has been working with Behavioral Health Systems Baltimore (BHSB) to implement the BCDSS Youth Wellness Program, to contract directly with mental health providers for services for children and youth. BCDSS partnered with Dr. Kyla Liggett-Creel of the University of Maryland School of Social Work (UMSSW) for the creation and implementation of the "Specialized Behavioral Health Services & Foster Care Curriculum" that all Wellness Program therapists must complete.

This new program has faced many challenges. Referrals to the Wellness Program were delayed from a planned launch date in October 2022, to February 2023 due to the four contracted providers experiencing delays in hiring qualified therapists. This resulted in a delayed start to the Foster Care Curriculum training. Additionally, due to the hiring issues, only eight therapists were trained in the curriculum, significantly fewer therapists than the 20 therapists anticipated to be available to serve up to 500 youth under the program. Retention problems also have ensued. As

of August 2024, only two of the original four providers awarded contracts are still in the program. Only six clinicians of the twenty that were anticipated were participating in the program. A new provider was being onboarded and preparing to accept referrals.[36] As of the writing of this report, we have no further information about the selection of a fourth provider. Given these challenges it seems difficult to expand the program to include families involved in BCDSS' Family Preservation Program as Defendants indicate in the report.

The IVA recognizes that this is a new program and that it is not uncommon for new programs to experience challenges in design and implementation. We hope the Defendants will use the results of the survey of Wellness Program participants and discussions with current and past providers to address the issues that have led to providers separating from the program as well as the number of youth who have not engaged in the program. BCDSS is encouraged to focus attention on why so many youth have not been willing to engage in the services offered. Were youth referred to the clinician of their choice? Are clinicians representative of the population in foster care? Were male, female and non-binary clinicians available? Did clinicians have the skills needed to meet the complex needs of youth? We hope that BCDSS and the program will be flexible enough to consider adjustments that might make participation more attractive to - and perhaps more useful to - some youth. This should include alternatives to the more standard one-to-one therapist client modality such as group therapy; art, music and dramatic arts therapy; yoga; peer support; mindfulness and other activities to make it truly a "wellness" program responsive to the needs of the youth it is to serve.

In addition to the Wellness Program, BCDSS also works with BHSB to contract for mobile crisis services with the goal "to divert children and adolescents from inpatient psychiatric

[36] The IVA learned this information in a combination of meetings with Defendants: an LJ Communications meeting on 8/13/24 and a Health Care Advisory Council meeting on 8/14/24.

hospitalization by strengthening home and community support." (Defts' 71st Report, p. 23). In August 2024, Defendant BCDSS announced a new crisis intervention services program through Advanced Behavioral Health (ABH) to provide mental health stabilization services for youth in care, promote stability, and to avoid or delay the need for a higher level of care. As with its predecessor, BCARS, this service was to be available 24 hours a day, 7 days per week. The new provider would be able to respond within one hour or same day, depending on the level of crisis. Beyond crisis services, the program would provide follow up services and six weeks of crisis stabilization services. All child welfare staff were notified of this crisis intervention service and how to access it.

However, in a November 13, 2024, email, BCDSS announced to staff that due to staffing shortages, the crisis services vendor currently would not be available as expected. Instead, they would only be available on weekdays between 9am and 5pm. Another crisis services organization would provide afterhours coverage Monday through Friday with a team being dispatched *based on availability*. For weekends, there will be *NO* designated youth crisis teams available. Instead, families or DSS staff would need to contact "988" for crisis services. Without a "24/7" crisis service available, youth may be at greater risk for police involvement. With youth already experiencing placement instability and hospital overstays, we hope to see this program back to its full intended capacity and scope soon.

Other mental health issues which merit discussion in Defendants' future reports include implementation of new state policies and procedures for psychotropic medication decision-making. Additionally, there continues to be an overall lack of data around the mental health needs of children in BCDSS custody. Information such as the percentage of children and youth in need of mental health services, percentage of children and youth receiving mental health services,

common diagnoses, frequently prescribed medications, and treatment outcomes, is essential to ensuring that the most appropriate services are available to meet the needs of children and their families/caregivers.

VI. DATA TABLE AND IVA CERTIFICATION DISCUSSION

Part Two of the MCD contains five sub-sections: Preservation and Permanency Planning; Out-of-Home Placement; Health Care; Education; and Workforce. Each of these contains Outcomes with Definitions, Internal Success Measures (ISMs), Exit Standards and Additional Commitments. The IVA is responsible for review of Defendants' assertions of compliance and may certify compliance only after verifying that the Defendants' reported data, and the measures and methods used to collect and to report that data are accurate, valid, and reliable. (MCD, p. 4).

"Certification" of individual measures involves (1) determining if the measure instruction for preparing and extracting the reported data meets the requirements of the MCD; (2) investigation of the way the reported data was obtained to determine if it meets the requirements of the measure instruction; (3) verification of the reported data itself to determine if what is reported as the level of compliance is accurate, valid, and reliable; and (4) for Exit Standards only, determination if the verified compliance level meets the MCD requirements. As to the first requirement, the parties and IVA in 2021 agreed upon the current measure instructions for each measure;[37] therefore, that finding need not be repeated in this report. Defendants request certification for six Exit Standards: Measures 48, 52, 65, 121, 125 and 126. The IVA can certify Exit Standards 48, 121, 125 and 126 but not Exit Standards 52 and 65 for the reasons discussed below.

[37] However, Defendants have indicated their intention not to use the current measure instructions which utilize QSR for the data source. See p. 17, above.

A. Data Table

The data from Defendants' 71st Report is included here with the IVA's decisions on certification. The measures in bold type are Exit Standards. Where a measure is both an Exit Standard and ISM (see fn. 13, above), both are listed in the "#" column under the Exit Standard. For 92 of the measures, Defendants report "TBD."

#	Measure	Data Sources	71st Report Data	Can Data Be Certified by IVA as Accurate, Valid, and Reliable?
	Preservation and Permanency			
1 - 12	See MCD, pp. 11 - 13 for measure language.	CJAMS, QSR, and Legal Services	**ALL TBD**	
13	% of applicable children for whom, where the child's paternity had not been established, BCDSS sought to establish the child's paternity within ninety days of the child's entry into OHP.	Legal Services	100%	**No.** Met with Legal Dept. 4/18/24. The documented efforts are not meeting all MCD measure instruction requirements. New process, if implemented, was not until after end of 71st report period.
14-22	See MCD, pp. 13 - 15 for measure language.	CJAMS and QSR	**ALL TBD**	
23	% of children for whom BCDSS reported to the child's parents, the parents' attorney, and the child's attorney any intention to request a change in the permanency plan at least ten days prior to the court review.	Legal Services	93.94%	**No.** Met with Legal Dept. 4/18/24. Proof of email notice needs to be retained for verification purposes. New process not implemented until after end of 71st report period.
24 - 26	See MCD, pp. 15 - 16 for measure language.	CJAMS	**ALL TBD**	
27	% of youth with a mental illness or a developmental disability who need a residential facility, residential supports, or day programming or supported	QA	100%	**No**. Based upon the information provided for this measure, Defendants are not

#	Measure	Data Sources	71st Report Data	Can Data Be Certified by IVA as Accurate, Valid, and Reliable?
	employment services after they turn twenty-one who received a referral, and who had a transition plan to an alternative service provider at least two years prior to their twenty-first birthday.			applying all requirements of the MCD measure instructions, specifically, that by the age of 19, youth would have "a transition plan to an alternative service provider at least two years prior to their 21st birthday."
28	Number of youth, ages eighteen to twenty-one, who exited OHP through rescission.	29a - 29b	See MCD, p. 16 for measure language.	CJAMS and QSR
29a - 29b	See MCD, p. 16 for measure language.	CJAMS and QSR	**TBD**	
	Out-of-Home Placement			
30 - 33	See MCD, p. 19 for measure language.	CJAMS and QSR	**TBD**	
34	Number of children placed in congregate care by age groups	CJAMS		
	(a) Children under seven placed in congregate care		2	**No.** The report is not accurate. The correct count is 4.
	(b) Children seven to twelve placed in congregate care		26	**No.** The report is not accurate. The correct count is 28.
35 - 37	See MCD, pp. 19 - 20 for measure language.	CJAMS	**TBD**	
38	Number of emergency foster homes on retainer and the number of beds available in each home.	CJAMS	0	**Unknown.** There were 3 providers with open placement structures of "emergency foster home retainer" during the reporting period. The IVA does not have access to any information as to

#	Measure	Data Sources	71st Report Data	Can Data Be Certified by IVA as Accurate, Valid, and Reliable?
				whether retainers were paid to them.
39 - **44**	See MCD, pp. 20 - 21 for measure language.	CJAMS and QSR	**TBD**	
46	% of kinship care providers who received written notification of BCDSS training opportunities.	QA	90.61%	**No**. Contradictory information about # of kin caregivers during reporting period. Validation file states that there were 370 kinship providers during reporting period. Validation file for Measure 47 states that there were 245 kinship caregivers during reporting period.
47	% of kinship care providers who reported having been informed about training and licensing opportunities.	QA	97.96%	**No**. See Measure 47, above.
45/ **48**	**90 % of kinship care providers received written notification of the right to apply for foster home licensing within ten days of placement.**	**CJAMS**	**95%**	**Yes.** See Certification Discussion following this Data Table.
49	Number of Special Support team positions funded by the Department, by type.	QA	11	See Measure 52.
50	Number of Special Support team positions filled, by type.	QA	11	See Measure 52.
	Education		5	
	Employment		1	
	Housing		1	
	Independent Living		1	
	Developmental Disabilities		1	
	Substance Use Disorder		1	
	Mental Health Navigator		1, later 2	
51	MCDSS MS-100 (job descriptions for all positions).	QA		See Measure 52.

#	Measure	Data Sources	71st Report Data	Can Data Be Certified by IVA as Accurate, Valid, and Reliable?
52	**BCDSS employed a staff of non-case carrying specialists to provide technical assistance to caseworkers and supervisors for cases that require specialized experience and/or knowledge.**	**QA**	**Yes**	**No.** See Certification Discussion following this Data Table.
53 - 64	See MCD, pp. 22 - 24 for measure language.	CJAMS and QSR	**TBD**	
65	**99.68 % of children in OHP were not maltreated in their placement, as defined by federal law.**	CJAMS	99.88%	**No.** See Certification Discussion following this Data Table. **Actual compliance rate was 99.52%**
66	See MCD, p. 25 for measure language.	Legal Services	**TBD**	Also, see pp. 53-54, below.
67	Number of children who spend four hours or more in an office, motel, or unlicensed facility.	QA	59	**Yes**. The IVA received notice of 59 unique children who met the criteria of this measure.
68	**99.8 % of children in OHP were not housed outside regular business hours in an office, motel, hotel or other unlicensed facility. If any child is so housed, BCDSS shall notify Pls.' counsel within one working day of the reasons for the placement, the name of the child's CINA attorney and the steps that BCDSS is taking to find an appropriate placement. Barring extraordinary circumstances, no child may be housed in an office for consecutive nights.** **A. % of children** **B. Attorney Notification**	QA	**A. 95.90%** **B. TBD**	A. **No**. Calculation of compliance rate for this Exit Standard is incorrect. The number of children housed in unlicensed facilities (59) should be divided by the total number of children in OHP during the reporting period (1,674). **The actual compliance rate was 96.48%.** B. **No.** No data provided.
69 - **72**	See MCD, p. 26 for measure language.	CJAMS	**TBD**	
	(intentionally left blank)			

#	Measure	Data Sources	71st Report Data	Can Data Be Certified by IVA as Accurate, Valid, and Reliable?
	Health			
74	% of cases in which children received appropriate follow-up when the initial health screen indicated the need for immediate medical attention.	CJAMS	100%	Unable to determine accuracy, reliability and validity currently.
73/ **75**	**95 % of new entrants to OHP received an initial health screen within five days of placement.**	CJAMS	91.96%	**No.** CJAMS report calculated compliance rate incorrectly. Actual compliance rate was 94.17%.
76 - **79**	See MCD, p. 30 for measure language.	CJAMS	**TBD**	
80/ **82**	**90 % of children entering OHP received timely periodic EPSDT examinations, and all other appropriate preventive health assessments and examinations, including examinations and care targeted for adolescents and teen parents.**	CJAMS	64.06%	**Yes.** Reporting process and data appear to be accurate, reliable and valid. **However,** Exit Standard certification level has not been reached.
81 - 90	See MCD, pp. 30 - 33 for measure language.	CJAMS and QSR	**TBD**	
91	% of children for whom BCDSS requested an MA card promptly when a replacement was needed.	CJAMS	97.53%	Unable to determine accuracy, reliability and validity currently.
92	% of all children for whom BCDSS delivered an MA card promptly.	CJAMS	100%	Unable to determine accuracy, reliability and validity currently.
93 - 94	See MCD, p. 33 for measure language.	CJAMS	**TBD**	
	Education			
95 - **99**	See MCD, pp. 34 - 35 for measure language.	CJAMS and QSR	**TBD**	
100	% of children who had an attendance rate of 85 % or higher in the Baltimore City Public School System.	QA	60.76%	Unable to determine accuracy, reliability and validity currently.

#	Measure	Data Sources	71st Report Data	Can Data Be Certified by IVA as Accurate, Valid, and Reliable?
101 - **111**	See MCD, pp. 36 - 37 for measure language.	QSR	**TBD**	
	Workforce			
114	See MCD, p. 38 for measure language.	CJAMS	**TBD**	
112 **/115**	**90 % of case-carrying staff was at or below the standard for caseload ratios.**	CJAMS	**TBD**	
113 **/116**	**90 % of case-carrying teams were at or below the standard for ratio of supervisor: worker**	CJAMS	**TBD**	
118	% of case-carrying workers who passed their competency exams prior to being assigned a case.	QA	100%	**Yes.** See Certification Discussion following this Data Table.
120	% of caseworkers who reported receiving adequate supervision and training.	QA	73.1 % supervision 80.8% training	Unable to determine accuracy, reliability and validity from the information provided.
117 **/121**	**95 % of caseworkers met the qualifications for their position under Maryland State Law.**	QA	100%	**Yes.** See Certification Discussion following this Data Table.
119 **/122**	**90 % of caseworkers and supervisors had at least twenty hours of training annually.**	QA	72.1%	**Yes.** Reporting process and data appear to be accurate, reliable and valid. **However,** Exit Standard certification level has not been reached.
123 / **125**	**90% of cases were transferred with required documentation within 5 working days.**	QA	98.36%	**Yes.** See Certification Discussion following this Data Table.
124 / **126**	**90 % of transferred cases had a case transfer conference within 10 days of the transfer.**	QA	99.26%	**Yes.** See Certification Discussion following this Data Table.

B. Measures Certification Discussion

The IVA reviews each substantive section of the MCD below.

1. Preservation and Permanency Planning

The Preservation and Permanency Planning section of the MCD includes five Outcomes containing a total of 7 Exit Standards and 22 Internal Success Measures (ISMs). Defendants do not provide data for nor claim compliance with any of the seven Exit Standards in this section. They provide data for only four of the ISMs (13, 23, 27, and 28), none of which are certifiable as accurate, reliable and valid. (See Data Table, above.) The four measures which were designated in April 2024 as priority measures[38] - Exit Standards 24 and 29a (case plans) and Exit Standard 20 and ISM 9 (FTDMs) - still have not been finalized to produce accurate, reliable and valid data.

2. Out-of-Home Placement

The OHP section of the MCD includes 12 Outcomes containing a total of 14 Exit Standards and 29 Internal Success Measures. Data was provided for 4 Exit Standards (48, 52, 65, and 68) and 9 ISMs (34, 38, 45, 46, 47, 49, 50, 51, and 67). See Data Table, above, for determinations on which data can be certified as accurate, reliable and valid.

Five of the measures were designated as priority measures - Exit Standard 57 (meeting all licensing standards for kin and resource homes); Exit Standard 58 (timely licensing approvals and reconsiderations); Exit Standard 60 (caregivers being provided all available information about the children placed in their care); Exit Standard 65 (maltreatment-in-care); and Exit Standard 72a (monthly caseworker visits). In Defendants' 71st Report, data was reported on only one of the priority measures, Exit Standard 65, and the CJAMS report for that Exit Standard, as discussed below, was not accurate at the time that the data was produced for the 71st report.

[38] See discussion of priority measures, pp. 14-15, above.

Defendants claim compliance with and request certification of three Exit Standards, Measures 48, 52 (and related ISMs 49, 50 and 51), and 65. The certification decisions for these Exit Standards are discussed below.

1. Exit Standard 48 (Internal Success Measure 45): *90 percent of kinship care providers received written notification of the right to apply for foster home licensing within ten days of placement.*

Defs.' Report: 95%

IVA Response: Based upon the documentation provided by Defendants, Defendants' report for this Exit Standard (and for identical Internal Success Measures 45) is found to be accurate, valid, and reliable. Defendants' reported compliance level of 95% for Exit Standard 48 is certified as compliant.

2. Internal Success Measure 49: *Number of Special Support team positions funded by the Department, by type.*

Defs.' Report: 11 specialists (July to September), 12 specialists (October to December)

Internal Success Measure 50: *Number of Special Support positions filled, by type.*

Defs.' Report: Developmental Disabilities: 1; Education Services including special education: 5; Employment: 1; Housing: 1; Independent Living: 1; Mental Health Services: 1 (July to September), 2 (October to December); Substance Abuse Services: 1.

Internal Success Measure 51: *MCDSS MS-100 (job descriptions for all positions)*

Defs.' Report: 100%

The parties have agreed that the correct state form for job descriptions is the MS-22, not the MS-100. Defendants have agreed to submit an MS-22 or job description (for non-agency specialists) for each position instead.

Exit Standard 52: *BCDSS employed a staff of non-case carrying specialists to provide technical assistance to caseworkers and supervisors for cases that require specialized experience and/or knowledge.*

Defs.' Report: Developmental Disabilities: 1; Education Services including special education: 5; Employment: 1; Housing: 1; Independent Living: 1; Mental Health Services: 1 (July to September), 2 (October to December); Substance Abuse Services: 1.

IVA Response: Defendants' data appears to be accurate, valid, and reliable for Measures 49-52. However, Defendants have not met the substantive requirements of this measure.

For the 71st reporting period, Defendants report specialists in the following areas required by the MCD: Developmental Disabilities; Education Services including special education; Employment; Housing; Independent Living; Mental Health Services; and Substance Abuse Services. For the same reason stated in previous reports and discussed with Defendants, the IVA is still unable to certify the measure as compliant. This issue is the crucial need for these designated specialists to be available to caseworkers to discuss not only children's needs but also the needs of their parents and caregivers. As the IVA has raised in past reports, the reported data does not indicate whether any of the specialists provide badly needed technical assistance to caseworkers to help families and caregivers, not just children in OHP. For example, all of the housing and employment specialists are housed within the Ready by 21 units and their job descriptions do not address providing assistance to caseworkers working with biological parents or kin providers. Additionally, the Mental Health Navigator description in the Ask the Expert flier does not include any referrals for parents or caregivers.

3. Exit Standard 65*: 99.68 percent of children in OHP were not maltreated in their placement, as defined in federal law. The measurement for maltreatment in foster care in this Decree is the*

measurement [that was] used by the United States Department of Health and Human Services in Child and Family Services Reviews, which means the percentage of children who were found to be victims of indicated maltreatment by perpetrators who are relative foster parents, non-relative foster parents, and group home or residential facility staff. "Relative foster parents" include unlicensed kinship care providers with whom BCDSS placed children in OHP.

Defs.' Report: 99.88%

IVA Response: Not certified. Actual compliance percentage is 99.52%.

The reported compliance level of 99.88% is not accurate for a number of reasons:

a. Defendants' report for the 71st reporting period, when downloaded from CJAMS by the IVA on November 11, 2024, shows a compliance level of 99.64%. Defendants' reported compliance rate of 99.88% was from a CJAMS report downloaded in February 2024. That original report showed only one case meeting the requirements for "provider-involved" indicated or unsubstantiated maltreatment. The report downloaded November 11, 2024, shows six such cases. The disparity between the two reports arises from defects that were in the February 2024 report code that were fixed in May 2024. Data kept separately by both the IVA and Defendant BCDSS indicates that, at this point, the report is working correctly.

b. There are at least two additional cases of maltreatment that should be but were not included in the report for Measure 65, for a total of eight cases of maltreatment. When those cases are included, the actual compliance rate is 99.52%, below the required compliance level of 99.68%.

c. The reason that the two cases are missing from the report is that the caseworker who input the data and the supervisor who approved the disposition failed to identify the cases as "provider-involved" even though the relationship of the maltreator to the child in one case was

"foster mother" and in the other case was "fictive kin." (In the latter case the relationships were mislabeled as "biological father" and "biological mother".)

d. Although Defendants have improved the accuracy of the CJAMS report, the failure of staff to input the data correctly results in the report being inaccurate and unreliable. The IVA has requested that Defendants update their training materials and retrain their CPS staff and supervisors to ensure the following in cases where a child is allegedly abused or neglected while in foster care:

1. Staff must mark the "provider involved maltreatment" field on the "Maltreatment Allegation" tab "yes" and, underneath, the provider type as "Family-based foster home," "Non-Family Based setting," or "Living Arrangement in foster care." (If the provider was a daycare provider or school, those fields should be marked. The case will not appear in the *L.J.* report but will be included in the federal report of maltreatment in foster care.) This applies even if the report is ultimately ruled out.

2. The "incident date" must be entered accurately to ensure that it occurred during a period of removal (foster care). If the exact date is not known, e.g., the child reports having been maltreated "two years ago" while in a foster home, there is a box to check off "approximate date." The date of the maltreatment report is entered erroneously as "incident date" at times.

3. When searching for a child to add as the victim in the CPS case, the staff member must be sure to choose the listing for the child with the CJAMS ID used in the "service case" in which the period of removal which includes the incident date was entered. Because CJAMS continues to permit the creation of multiple CJAMS IDs and cases for one child (and because cases cannot be merged when more than one is erroneously created), this requires time and careful investigation. One regularly sees three or more CJAMS IDs and even more cases for children,

particularly if they have names that are challenging to spell. Sometimes staff choose the wrong ID or even create a new one for the CPS case. When that happens, there is no way for CJAMS to link the cases, and the maltreatment report will not even appear on the *L.J.* or federal report. The only reason that the IVA has known about these cases is through the maltreatment spreadsheet they have compiled from the maltreatment reports provided to the IVA and Plaintiffs' counsel as required by Exit Standard 66 or through a "hand count" spreadsheet kept by BCDSS staff.

4. The correct relationship(s) between the victim and maltreator(s) must be input.

3. Health Care

The Health Care section of the MCD includes five Outcomes containing 7 Exit Standards and 15 Internal Success Measures. Data was provided for two Exit Standards (75 and 82) and five ISMs (73, 74, 80, 91, and 92). See Data Table, above, for determinations on which data can be certified as accurate, reliable and valid. Defendants do not claim compliance with any of the Exit Standards.

Three of the measures were designated as priority measures - Exit Standard 75 (timely initial health screenings); Exit Standard 82 (timely comprehensive examinations); and Exit Standard 83 (timely ongoing preventative care). As of the time of this report, the report for Exit Standard 83 has not been finalized to produce accurate, reliable and valid data.

4. Education

The Education section of the MCD includes three Outcomes containing 6 Exit Standards and 11 Internal Success Measures. Defendants do not claim compliance with any of the Exit Standards and report data for only one of the measures (ISM 100). At of the time of this report, the only measure designated as a priority measure, Exit Standard 99 (timely school enrollment), has not been finalized to produce accurate, reliable and valid data.

5. Workforce

The Workforce section of the MCD includes three Outcomes containing 6 Exit Standards and 9 Internal Success Measures. Data was provided for 4 Exit Standards (121, 122, 125, and 126) and 6 related ISMs (117, 118, 119, 120, 123, and 124). See Data Table, above, for determinations on which measures' data can be certified as accurate, reliable and valid.

Two of the other Workforce Exit Standards were designated as priority measures - Exit Standard 115 (OHP and Resource & Support worker caseloads) and Exit Standard 116 (OHP and Resource & Support supervisor to caseworker ratios); as of the time of this report, only the report for Exit Standard 115 has been finalized to produce accurate, reliable and valid data.

Defendants have reached certification-level compliance for 3 Exit Standards: Measures 121 (related ISMs 117 and 118), 125 (related ISM 123) and 126 (related ISM 124) and are seeking certification of these measures.

1. Internal Success Measure 117: *Percent of caseworkers who qualified for the title under Maryland State Law.*

Defs.' Report: 100%

Internal Success Measure 118: *Percent of case-carrying workers who passed their competency exams prior to being assigned a case.*

Defs.' Report: 100%

Exit Standard 121: *95 percent of caseworkers met the qualifications for their position title under Maryland State Law*.

Defs.' Report: 100%

IVA Response: Based upon the documentation provided by Defendants, Defendants' reports for this Exit Standard and for Internal Success Measures 117 and 118 are found to be accurate, valid,

and reliable. Defendants' reported compliance level of 100% for Exit Standard 121 is certified as compliant.

The measure instruction for Measure 121 follows the language of Maryland Human Services Article Section 4-301 which requires that, with one exception, Defendants hire as caseworkers only human services professionals who are licensed by the state in areas such as social work and psychology. Unlicensed individuals may be hired only if they meet the following criteria: (1) have a bachelor's degree in an "appropriate behavioral science"; (2) complete mandatory pre-service training; and (3) are supervised by licensed social workers. All new caseworkers must pass a competency test after the pre-service training and prior to being granted permanent employment and assigned cases.

For Measure 121, the Defendants report a compliance level of 100% which meets the MCD requirements. The IVA has reviewed the information regarding new hire qualifications. Measure 121 requires reporting on newly hired caseworkers during the reporting period in which they are first assigned a case. For all of those caseworkers, Defendants provided (1) documentation of either an MSW in social work or related field or a bachelor's degree in an "appropriate behavioral science," and (2) proof of completion of the mandatory pre-service training and passage of the competency examination prior to assignment of a first case. For those new caseworkers without a social work license, they also provided documentation of their supervisors' social work license. The IVA finds that the procedures used by Defendants to collect this information and the data provided are reliable, valid, and accurate. The IVA certifies Defendants' compliance with Exit Standard 121 for the 71st Report period.

2. Exit Standard 125 (Internal Success Measure 123): *90 percent of cases were transferred with required documentation within five working days.*

Defs.' Report: 98.36%

Exit Standard 126 (Internal Success Measure 124): *90 percent of cases had a case transfer conference within ten days of the transfer.*

Defs.' Report: 99.26%

IVA Response: BCDSS has issued a detailed SOP and has a well-documented process for case and document transfers and conferences, resulting in a process which is likely to result in a valid and reliable result. The IVA has reviewed the spreadsheet and the calculations of compliance.[39] The IVA has reviewed a small random sample of transferred cases and found that the information provided on the spreadsheet is accurate. Based on this review, Defendants' reported compliance is certified as accurate, valid and reliable.

C. Additional Commitments

Four of the five subsections in Part Two of the MCD also have Additional Commitments included. These 22 Additional Commitments are included in the MCD to address issues of importance to the welfare of the children served by BCDSS which do not fit neatly into the Internal Success Measures/Exit Standards measures format. Defendants are required to report on compliance with the Additional Commitments in each six-month compliance report. A review of the Additional Commitments and certification discussions are included as Appendix 1 to this report.

[39] The actual compliance rate for Exit Standard 126 is 99.27% due to a slight error in calculating the denominator (549 instead of 537 cases); the error is so slight as not to be significant in the determination of accuracy, validity and reliability.

D. Other Reporting Requirements

The first and second parts of the MCD contain additional reporting requirements. (See IVA Resp. to 64th Rep., Att. 1, *L.J.* MCD Notification and Reporting Requirements.) Defendants have reported on five of these other reporting requirements in the 71st Report.

1. MCD Part One, Section II. Verification Activities and Information Sharing

> *F. The Plaintiffs shall have access to the following: ... 4. Within one working day, Plaintiffs' counsel shall be notified of the serious injury or death of any class member and shall be provided timely the incident report, any reports of the investigative outcomes, and access to the child's case file.*

Defendants have reported no fatalities in 2024. In the past, Defendants have shared information about fatalities in which children or their families have had BCDSS involvement in the prior year, the criteria which requires them to report the fatality to SSA.[40] For the first time in this IVA's work with BCDSS, Defendants now refuse to share any information about fatalities unless the child or youth is in OHP at the time of their death.[41]

In the six months between July - December 2023, the IVA's records show that Defendants provided 24 non-runaway-related Critical Incident Reports. In the 10 ½ months from January until mid-November 2024, the IVA's records show Defendants provided 10. Because the report for Measure 61, which should show all safety-related Critical Incident Reports, does not currently work accurately, the IVA has no way to validate these numbers. In all cases, the reports that were received were provided within a week; most were received within a day or two of the incident.

[40] SSA/CW Policy #22-02, https://dhs.maryland.gov/documents/SSA%20Policy%20Directives/Child %20Welfare/SSA%2022-02%20CW%20Child-Fatality-Serious-Physical-Injury-Critical-Incident.pdf (accessed 11/27/24).
[41] E-mail from BCDSS attorney Steven Cohen, 6/25/24. ("As a result of a continuing review of our practices and procedures required by the MCD and the Human Services Article, we have decided to restrict your receipt of Fatality, Serious Physical Injury and Critical Incident Reports to only those involving class members. This change will start immediately so no further reports inconsistent with this policy will be provided.")

The IVA has no record of any follow-up reports being provided. Reports of runaways have been received regularly since April 2024 after a period of five months in which no reports were sent. Many of the runaways are children who are being asked to stay in an office building overnight while BCDSS seeks a placement for them.

2. MCD Part One, Section II. Verification Activities and Information Sharing

F. The Plaintiffs shall have access to the following: ... 5. Defendants shall promptly provide to the Independent Verification Agent and to Plaintiffs' counsel all publicly available reports that Defendants receive indicating that they are not in compliance with a requirement of this Decree.

Defendants report receiving no such publicly available reports during the 71st report period.

3. MCD Part One, Section III, Communication and Problem-Solving

E. By December 31, 2009, Defendants, after consultation with the Internal Verification Agent, Plaintiffs' counsel and stakeholders, shall establish a standardized process for resolving issues related to individual class members. ... Records shall be kept of the issues raised and their resolutions, and summary reports shall be provided to the Internal Verification Agent and Plaintiffs' counsel every six months.

On November 20, 2024, Defendant provided the summary report for the report period ending December 21, 2023. (Att. 12)

Based upon the complaint summary provided and the description provided in Defendants' 71st Report (pp. 28-29), BCDSS is found to be in compliance with this requirement of the MCD.

4. MCD Part Two, Section II. Out-of-Home Placement

D 1. a. (4) Plaintiffs' counsel will be notified within ten working days of any child being placed on a waiting list or in temporary placement.

BCDSS has continued to send a weekly list of children who have overstayed the period of medical necessity in hospitals, who are waiting for new placements to be located for them, or who are on waiting lists to be placed in new settings to which they have been admitted. The IVA acknowledges the efforts of the Defendants to create and share this information as required by the MCD.

For verification purposes, the IVA, in the Response to the 70th Report, had requested information describing the process for compiling this list and how BCDSS ensures that all children awaiting an appropriate placement are included on the list. Subsequently, in an email dated July 17, 2024, in a meeting on October 30, 2024, and in a follow-up email on November 6, 2024, the IVA has requested a log/list of all requests for placement to the Child Placement Resource Unit (CPRU) and their resolution. Defendants have failed to respond to these requests making it impossible for the IVA to validate whether Defendants are complying with this requirement of the MCD.

5. MCD Part Two, Section II. Out-of-Home Placement

D. 9. a. (1) (b) … Within five business days of receipt of a [maltreatment in care] report, BCDSS shall notify the attorney for the child, the child's parents and their attorneys …, Plaintiffs' counsel …. An unredacted (except the name of and identifying information about the reporter and privileged attorney-client material) copy of the report must be provided to the child's attorney and Plaintiffs' counsel. The completed unredacted …

disposition report must be provided to the child's caseworker, child's attorney and to Plaintiffs' counsel within five business days of its completion. ...

Defendants report that "The Agency continues to explore and develop processes to achieve timely notice and to provide copies of maltreatment reports and dispositions in compliance with this requirement." Although Measure 66, the Exit Standard requiring timely notice does not rely on a CJAMS or QSR report for data, Defendants have failed to provide data for this measure for the 70th and 71st Report - the entire year of 2023. The IVA keeps detailed records of every maltreatment report and disposition provided by Defendants. During the 71st reporting period, Defendants received at least 23 reports of maltreatment for children in OHP; 16 of those reports were sent to the IVA and Plaintiffs' attorney for a 30% compliance rate. During the 71st reporting period, Defendants issued dispositions in response to 36 reports of maltreatment; the IVA and Plaintiffs' attorneys were sent 6 of those 36 reports, for a 17% compliance rate. The total compliance rate for providing maltreatment reports and dispositions for the reporting period was 59%.

VII. CONCLUSION

The availability of accurate, valid, and reliable data from CJAMS continues to be a barrier to compliance reporting and lawsuit exit. Some data reports remain to be completed, and most of the others, while completed, have been found to have defects or need enhancements. The CJAMS application itself still needs significant updates which will require additional resources if reporting is to be made accurate and reliable in the foreseeable future.

Substantively, the focus of the agencies needs to include (1) increasing staffing at the caseworker and supervisor levels to reduce caseloads and ensure adequate oversight and coaching; (2) continuing to embed in the agency through culture, policy and practice a "kin first" approach

to meeting the needs of children and their families; and (3) with meaningful input from stakeholders including children and families served, taking bold action to ensure appropriate placements and timely services.

Respectfully Submitted,

/s/
Rhonda Lipkin
Independent Verification Agent

Lisa Mathias
Assistant to Independent Verification Agent

LIST OF ATTACHMENTS

Att. 1. IVA Document and Data Request, emailed to Defendant BCDSS on September 30, 2024.

Att. 2. Defs' Response to IVA Document and Data Request, received on November 20, 2024.

Att. 3. BCDSS, Child Welfare Trends, October 2024.

Att. 4. *L.J. v. Massinga* Modified Consent Decree - Outcomes Only (October 9, 2009).

Att. 5. IVA QSR Report emailed to Plaintiffs and BCDSS on February 27, 2024.

Att. 6. DHR Letter to Gen. Assembly with CWLA Study (October 2006).

Att. 7. IVA Certification Report for Defendants' 60th Report (filed June 25, 2019), pp. 16-24.

Att. 8. Baltimore Sun, "Housing Maryland foster children in hotels: 'unsafe situations for everyone'" (November 3, 2024).

Att. 9. Baltimore Banner, "Maryland Foster Children are Being Kept Overnight in Hotels and Downtown Office Buildings" (September 15, 2022).

Att. 10. Maryland Department of Health, Maryland Healthy Kids Preventive Health (EPSDT) Schedule (January 1, 2024).

Att. 11. American Association of Pediatric Dentistry, Dental Periodicity Schedule (2022).

Att. 12. Complaint Process Summary Report for the 71st Report, received November 20, 2024.

Copies provided on November 29, 2024, by email to:

Rafael López, Secretary, DHS
Brandi Stocksdale, Director, BCDSS
Carnitra White, Principal Deputy Secretary, DHS
Dr. Alger Studstill, Jr., Executive Director, SSA
Stephanie Franklin, Attorney for Plaintiffs
Mitchell Y. Mirviss, Venable LLP, Attorney for Plaintiffs
David Beller, Attorney for Defendants
Ann Sheridan, Attorney for Defendants
Barry Dalin, Attorney for Defendants
James Becker, Attorney for Defendants
Judy Meltzer, Forum Facilitator
Kathleen Noonan, Forum Facilitator