

L.J. v. Massinga Independent Verification Agent

Certification Report for Defendants' 69th Compliance Report

Appendix 1

IVA Response to Defendants' Report on Additional Commitments

Defendants' 69th Report, pp. 24-40

(July 1 - December 31, 2022)

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1. Preservation and Permanency

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

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

Defs.’ Report: “BCDSS is confident of the credibility of the ‘look back’ method that highlights the sufficiency of the annual allocation.” (Defs.’ 69th Rep., p. 24). “In short, the funding allocation to strengthen families through Family Preservation services has proven to be sufficient.” (Defs.’ 69th Rep., pp. 25)

IVA response: Cannot determine certification due to lack of documentation to support assertions.

Defendants fail to provide any specific data or documentation to support their assertions. They do not provide information as to how many families requested services, the problems presented by those families, what services were provided, the impact of those services or whether those services were provided “in a duration and intensity reasonably calculated to enable the child to remain with the family without removal.” They do not document the number or percentage of children removed or the relationship in time between services and removal.

Limited information is provided regarding the number of staff dedicated to Family Preservation Services, approximate number of families served since the start of the 69th reporting period, and funding available from different sources. Defendants state that the number of caseworkers assigned to Family Preservation - 45 - remained consistent throughout the 69th reporting period. They do not provide any specific information to support that statement, and do not provide information as to whether the unit was fully staffed during that time. Review of the personnel transaction reports appear to indicate that Family Preservation in fact experienced a significant staffing decline in 2022. During 2022, 11 caseworkers and social workers and 3 supervisors left Family Preservation, and only 4 caseworkers were hired. Review of staffing as of June 30, 2023, shows 21 unfilled caseworker positions in Family Preservation. With almost half of the allocated positions unfilled, there is no reasonable way that Defendants can assess need based upon historical spending.

The IVA continues to urge the parties to determine what data and documentation must be included in an analysis to meet the requirements of this Additional Commitment.

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

Defs.' Report: "BCDSS/DHS have complied with this requirement." (Defs.' 69th Rep., p. 26)

IVA response: Not in compliance.

For this Additional Commitment, Defendants provide no justification or documentation to explain why the \$4 million in super flex funds is sufficient to meet the requirements of this

Additional Commitment. The amount allocated by DHS to BCDSS for flex funds has remained at “over \$4 million” since they began reporting on this Additional Commitment for the 63rd reporting period (2019) through the 69th reporting period (2022) without providing documentation of the basis for this amount being sufficient or how it could remain sufficient given the substantial amount of inflation in costs since between 2019 and 2022.

This Additional Commitment is closely tied to the first Additional Commitment in this section. The IVA urges the parties to discuss what process or documentation can be provided to demonstrate compliance with this requirement of the MCD.

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

Defs.’ Report: No claim of compliance. (Defs.’ 69th Rep., p. 26)

IVA response: Not in compliance.

Defendants discuss the launch of the Place Matters Initiative in 2007 (two years prior to the signing of the MCD) followed by the implementation of the Integrated Practice Model and the FIM ‘reboot’ in response to this Additional Commitment. However, this does not constitute a “*formal evaluation of the efficacy of its family-centered practice initiatives*” as required. The IVA is unable to certify this Additional Commitment without the required evaluation. Furthermore, this Additional Commitment requires collection of data on “*the efficacy and safety of [DHR/BCDSS] practices in utilizing family-centered practice and team decision-making to avoid*

the removal of children.” There is no such data included with this report to meet this requirement. One of the necessary, but relatively simple steps that Defendant DHS needs to take to collect the required data is to add in the meetings section of the CJAMS application a field to require input of the outcomes of Family Team Decision-Making Meetings (FTDMs).

Given the time frame initially placed on this requirement and the passage of time since the signing of the MCD, we urge the parties to discuss what documentation would demonstrate compliance with this requirement in the future.

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

Defs.’ Report: No claim of compliance. (Defs.’ 69th Rep., pp. 26-27)

IVA response: Not in compliance.

In their 69th report, Defendants once again shared plans for “[q]uarterly ‘Talk with the Director’ meetups to systematize opportunities for young people to speak with Agency leadership.” (Defs.’ 69th Rep., p. 27). However, this also was promised in the 67th and 68th Reports. Defendants have restated their plan to pilot this opportunity and to provide documentation of these opportunities to the IVA. (Defs.’ 69th Rep., p. 27). As of the date of this report, no such information has been received.

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

Defs.’ Report: Partial compliance. (Defs.’ 69th Rep., pp. 27-28)

IVA response: Not in compliance.

Defendants created an Intensive Case Management (ICM) unit and released a new standard operation procedure regarding the unit. However, due to significant staffing issues, the unit has not been fully staffed and many youth who could benefit from the services of the ICM unit are not receiving ICM services. Defendants have continued to report that “the ICM Team staffing numbers are negatively impacted by the statewide workforce hiring difficulties.” They report the composition of the team as “a caseworker, a behavioral health navigator, and a family support worker.” (Defs.’ 69th Rep., p. 27). There is no attempt to claim that the current staffing is adequate to meet the needs of the significant number of youth “who frequently are missing from placement or are experiencing multiple disruptions in placement,” as is demonstrated by the high number of youth spending multiple nights in BCDSS office buildings and hotels as well as the number of runaway reports provided regularly by Defendants.

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

Defs.’ Report: No clear statement of compliance. (Defs.’ 69th Rep., pp. 28-30)

IVA response: Progress towards compliance.

For the first time, Defendants have made progress towards presenting an actual plan to provide the services needed to meet the goals of children being “Ready by 21.” Rather than simply listing available programs and number of youth attending, they set out strategies and steps taken to implement those plans and strategies. However, they do not discuss the impact of those strategies and what has been put in place to maintain successful implementation of the plan. They do not address what is being done to address the results of the “aging out” youth survey which shows that for the July - December 2022 reporting period, only 46% of youth reported having received the services necessary to transition successfully to independence. (*L.J. Measure 26*). They do not discuss what is being done to address areas where implementation has been unsuccessful such as the very low percentage of transition plan meetings taking place and transition plans being approved. Reports from CJAMS show that transition planning for youth ages 14 and over is not happening as required by both the MCD and the state policy. For the July - December 2022 reporting period, only 20% of youth had the required transition plan completed (*Measure 29a*), and less than 5% of youth ages 14 - 20 had the required transitional planning meeting (*Measure 20d*) during the reporting period. Without transition meetings being held and transition plans being completed, Defendants cannot plan for youth to get the individualized services needed for successful transition to adulthood.

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

Defs.' Report: In compliance. (Defs.' 69th Rep., p. 31)

IVA response: In compliance.

While this requirement is in technical compliance, it is important to note that the foster care rate to which the guardianship subsidy rate is tied, is not in compliance with the MCD (see discussion at p. 15, below) and that inflation is a very serious concern. This rate has remained the same for several years and, given the current high levels of inflation, could not possibly go as far as needed to meet the financial needs and costs of those taking custody and guardianship of children from the foster care system.

2. Out-of-Home Placement

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

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

Defs.’ Report: “BCDSS/DHS contracted with the UMSSW for the assessment required for commitment and the results were attached to the 68th Report. See Attachment #1.” (Defs.’ 69th Rep., p. 32)

IVA response: Not in compliance.

In September 2020, Defendants contracted with The Institute for Innovation & Implementation at the University of Maryland School of Social Work (UMSSW) to complete a new biennial needs assessment to be completed by May 2021. The completion of this assessment was delayed by more than a year, in part due to issues related to CJAMS access and documentation. In June 2022, Defendants shared the final version of a report titled the “Baltimore City Placement Review” which the Defendants attached to their 68th Report as Attachment 1.

At the June 2022 *L.J.* Problem-Solving Forum, the Plaintiffs and the IVA shared their concerns that the UMSSW Placement Assessment does not meet the requirements of the MCD for several reasons:

- (1) It fails to identify the placement needs of children in foster care in a quantifiable way.
- (2) It lacks specificity regarding placement and service needs which, in turn, does not allow for a determination to be made as to whether the availability of current placements and services meets those needs.
- (3) It does not address specific components of the Additional Commitment including least restrictive placements, family placements for all youth who do not have a clinical need for a non-family placement; emergency family placements; placements for children with serious mental health problems and/or developmental disabilities; and programs for semi-independent and supportive independent living.

On September 22, 2022, Plaintiffs' counsel sent Defendants a letter and memo further detailing the reasons why the "Baltimore City Placement Review" does not meet the requirements of the MCD in substance or process. (Plaintiffs' letter and memo were included as Attachments 9 and 10 to the IVA's Response to Defendants' 68th Report.)

At the November 28, 2022, LJ forum, Plaintiffs' counsel and Defendants agreed to work together to design a new placement assessment. Two assessments, one from Oregon and one from Washington, D.C., were shared as samples of what a new placement assessment could look like for the purposes of meeting this requirement of the MDC. Director Stocksdale agreed to convene a small workgroup to discuss the elements required by the MCD and who could complete this sort of assessment. There was much discussion among group members about the need for such a placement assessment to be state-wide and not limited to Baltimore City since the state is

responsible for contracting and licensing all placements other than kin homes and locally licensed resource homes. This workgroup has not met since early 2023, in part to give the new administration time for transition. However, it is time to return to this issue with the state as lead in the assessment process.

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

Defs.' Report: No claim of compliance. (Defs.' 69th Rep., p. 32)

IVA response: Not in compliance.

The placement assessment completed by the UMSSW does not meet the MCD requirements. Without an adequate biennial assessment as required by OHP Additional Commitment 1, Defendants cannot comply with OHP Additional Commitment 2.

3. *BCDSS shall provide stipends to emergency shelter care homes even in months in which children are not provided care to assure that such homes remain available for emergency placements. The Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary's judgment, to meet these requirements and, if included in the Governor's budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defs.' Report: No claim of compliance. (Defs.' 69th Rep., pp. 32-34)

IVA response: Not in compliance.

Defendants have provided conflicting information regarding this Additional Commitment. In their 69th report, Defendants describe the stipend to emergency foster homes as an “outdated concept” and not appropriate for the youth for whom they are having difficulty finding a placement. (Defs.’ 69th Rep., p. 32). However, despite these claims, Defendants state that “we are identifying foster homes willing to accept emergency placements.” (Defs.’ 69th Rep., p. 34).

In addition, the Defendants have never proposed a modification to this requirement as clearly stated in the Additional Commitment: “*Should BCDSS determine that this provision is not necessary to achieve the outcomes of this Consent Decree, BCDSS will propose a modification to this Consent Decree about which the parties will negotiate in good faith.*” If Defendants do not intend to comply with this Additional Commitment, they should seek the modification rather than continue to simply report that zero homes are on retainer or that emergency foster homes are not a suitable placement for youth that are experiencing overstays in hospitals or who are living for days, weeks and even months in office buildings or hotels.

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

Defs.’ Report: No clear statement of full compliance. (Defs.’ 69th Rep., pp. 34-35)

IVA response: Progress towards compliance.

Defendants have now made substantial progress on the creation of a Kinship Resource Center. This project is not being developed through an RFP, but rather through resources and staff at BCDSS. The creation of a “brick and mortar” Kinship Resource Center was delayed due to COVID restrictions. However, a soft opening of BCDSS KinCare Center, located at 2923 E. Biddle Street, occurred in spring of 2022. This soft opening allowed for BCDSS staff to visit the center and obtain information for kin providers. In October 2022, the center opened to the public. BCDSS shared an electronic version of the KinCare Center brochure with the IVA and CINA attorneys at the quarterly meeting with Director Stocksdale in February 2023. It is not known how widely these brochures are disseminated or where they are available to kin providers. The KinCare Center has been publicized to BCDSS staff, and they are expected to share the information with kin providers.

In addition to the creation of a kinship care support center, there are other services required by this provision including – *“transportation assistance to referrals, activities and appointments related to the care of children; staff training; training for caregivers; and the development and support of a statewide network of support groups for kinship caregivers.”* The IVA does not have information about the availability of these other services. This Additional Commitment also requires that the Defendants *“provide funding sufficient to operate a kinship caregiver support center(s).”* The budget for the KinCare Center has not been shared with the IVA, and therefore sufficiency of the budget cannot be assessed. What the IVA does know is that existing BCDSS staff were charged with developing the center and identifying other existing staff to assist in the project.

The IVA will plan a visit to the KinCare Center soon and looks forward to learning more about the center, the Kinship Navigators, the issues presented by kin caregivers, data collected

about kin use of the center and how the center's work helps the agency to achieve their goal of placing more children with kin caregivers with sufficient support to help make those placements stable and, if needed, permanent.

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

Defs.' Report: In compliance. (Defs.' 69th Rep., p. 36)

IVA response: In compliance.

As per the Ready by 21 Policy Manual, Defendants apparently are in compliance with this requirement. As Defendants have acknowledged, however, the governing regulations (.07.02.10.15.B(3)) and policy releases for resource home payment increases (most recently, SSA 19-16 (5.28.19)) do not reflect this requirement and need to be updated to guarantee raises in the SILA rate when resource home rates are increased. Defendants have provided no information about when they intend to promulgate the new regulations.

While this requirement is in technical compliance, it is important to note that the foster care rate to which the SILA rate is tied is not in compliance with the MCD (see discussion on p. 15, below) and that inflation is a very serious concern. Given current high rates of inflation, it is unlikely that the stipend could go as far as would be required in order to meet the financial needs of foster youth in the SILA program.

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

Defs.’ Report: No claim of compliance. (Defs.’ 69th Rep., p. 36)

IVA response: Not in compliance.

The Defendants have again failed to address the concerns raised in the IVA’s previous reports regarding this Additional Commitment. To meet the MARC and maintain it, Maryland should be providing an annual increase matching the increase in the cost of living. Yet, even though the cumulative rate of inflation has been 17.7% between 2019 to 2023 (usinflationcalculator.com, accessed 3/25/23), there has not been an increase in the public foster care board rate since FY2019 when there was a 1% increase. In their 66th Report, Defendants stated that an increase in the foster care board rate was planned for January - June 2022. However, no such increase appears to have occurred. Defendants state that private agency providers received an increase in 2022 but do

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

not provide any explanation for why the public foster care board rate was not increased. Given the current rate of inflation, this should be a priority.

Defendants assert that Maryland “continues to be at the top end of the scale in payments to providers.” (Defs.’ 69th Report, p. 36). While this may be true (no data or evidence is provided), Maryland is also at the top end of the scale in cost of living.²

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

Defs.’ Report: No claim of compliance. (Defs.’ 69th Rep., pp. 36-37)

IVA response: Steps taken towards compliance.

To meet its goal of 50% kin placements and 90% of kin placements being licensed homes, the agency needs to make it as easy and supportive as possible for kin to care for their relative foster children. To be a “Kin First Agency” as BCDSS states it wishes to be, it will need to address negative attitudes such as those reflected in Defs.’ 69th Report at p.37, “The Agency can try to remove all obstacles and encourage the caregivers, but the caregivers need to be willing to make the commitment to the time necessary to participate in a home study and the mandatory training.”

Defendant BCDSS recently has taken an important step towards fulfilling the first requirements of this Additional Commitment by contracting with A Second Chance, Inc., a well-known successful program for providing support for kinship caregivers. The IVA looks forward to the development and sharing of an actual plan to address kin providers’ needs.

² See, e.g., <https://www.cnbc.com/2022/07/13/these-are-americas-10-most-expensive-states-to-live-in.html>
<https://www.creditkarma.com/insights/i/cheapest-states-to-live-in#overall-cheapest-and-most-expensive-states-to-live-in-for-2022>.

Defendant DHS has not provided any information on its steps to meet the requirements of this Additional Commitment. Hopefully, DHS will act quickly to take advantage of the recent federal approval of regulations (45 CFR Parts 1355 and 1356 (eff. November 27, 2023)) recognizing the need to differentiate requirements for licensing between kinship caregivers and non-kinship caregivers to “place as few burdens on such families as possible, consistent with ensuring the safety and well-being of children in foster care.”³ The federal Children’s Bureau has issued a program letter, PI 23-10, to provide implementation guidance to adopting licensing standards that make that differentiation. <https://www.acf.hhs.gov/cb/policy-guidance/pi-23-10>.

Further discussion of this topic can be found in the IVA Response to Defs.’ 69th Report section on Kinship Care (p. 18) and OHP Additional Commitment 4 (Kinship Resource Center), p. 13, above.

8. *To meet the requirements of Outcome 4 (as defined) of this Section to provide funding for child care, DHR/BCDSS shall continue without interruption to provide funding for child care to caregivers to at least the extent required by DHR Policy SSA 08-17 (attached as Exhibit 1). Defendants agree to extend the provision of child care to include before- and after-school care, vacation and holiday care, and sick day care, as needed, for all children ages twelve and under, but only to the extent funds are available from savings generated through the documented reduction in the use of congregate care. To satisfy this requirement, the Secretary shall include funds annually in the DHR budget proposal that are sufficient, in the Secretary’s judgment, to meet these requirements and, if included in the Governor’s budget, shall advocate for the appropriation of such funds by the General Assembly.*

Defs.’ Report: In compliance. (Defs.’ 69th Rep., p. 37)

³ <https://www.govinfo.gov/content/pkg/FR-2023-09-28/pdf/2023-21081.pdf> at p. 66701. (last visited October 24, 2023).

IVA response: In compliance.

The IVA has no information that caregivers needing childcare have been denied access to the necessary funding. Defendants recently have issued a new SSA Policy concerning childcare - SSA-23-03, Child Care Services for Children in Out-of-Home Care - 1 (eff. 9/25/23).⁴ The new policy appears to provide for at least the same services as the old policy, which was found to be compliant.

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

Defs.' Report: "continues to work to meet this commitment" (Defs.' 69th Rep., p. 38).

IVA response: Not in compliance.

For the same reasons stated in the IVA's previous responses to this Additional Commitment, the IVA is unable to determine compliance. Defendants do not provide information about or documentation of any actual policies that outline and ensure the services. IVA requested and received a copy of the "Expecting and Parenting Supervision Addendum Form" that Defendants reference. However, Defendants do not explain how this supervision addendum form, alone or as a part of other practices and policies, results in ensuring that pregnant and parenting youth receive the services needed to acquire parenting skills.

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

⁴ <https://dhs.maryland.gov/documents/SSA%20Policy%20Directives/Child%20Welfare/SSA%2023-03%20CW%20Child-Care-Services-for-Children-in-Out-of-Home-Care-1.pdf> (downloaded 10/13/23),

Defs.' Report: No claim of compliance. (Defs.' 69th Rep., p. 38)

IVA response: Not in compliance.

Defendants provide no documentation of policies or implementation of policies for ensuring such input. Defendants state that resource home caseworkers communicate with children's caseworkers to solicit feedback about care provided as part of every reconsideration of foster homes. They claim to be "exploring with the IVA other methods to meet this commitment." The IVA is unaware of that exploration. In addition, as of the drafting of this report, it is not known if reconsiderations of foster homes are even being completed timely. The CJAMS provider module which should supply that information still has numerous defects which are hindering the agency's ability to obtain accurate data on a number of aspects of their work in licensing and monitoring foster homes, including timely reconsiderations. The IVA has not been provided a copy of the "reference to obtaining a child's input" which Defendants state has been added to the template for completing a reconsideration.

3. Health Care

There are four Additional Commitments in the Health Care section.

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

Defs.' Report: In compliance. (Defs.' 69th Rep., p. 38)

IVA response: In compliance.

2. *By March 2009, BCDSS shall establish and thereafter maintain a Health Care Advisory Council, including medical experts and advocates for children from outside BCDSS, DHR, and the Department of Health and Mental Hygiene, to provide guidance on implementation of the requirements of the BCDSS Health Care Initiative.*

Defs.' Report: In compliance. (Defs.' 69th Rep., p. 39)

IVA Response: In compliance.

During the reporting period, the Health Care Advisory Council continued to meet quarterly. The Council does not have a practicing dentist but has filled the positions for a representative from the Baltimore City Health Department and a representative from The Center for Hope. A youth was recruited for the Council and has participated actively in recent meetings. The IVA remains concerned about the lack of parent and caregiver voice on the Council. Youth, parents, and caregivers should be represented on the Council in ways that facilitate their full involvement.

3. *By August 2009 and annually thereafter, BCDSS/DHR, in consultation with the medical director and the Health Care Advisory Council, shall develop a plan, a timetable, and a funding strategy for inclusion in the FY 2011 and subsequent budget requests funding sufficient in the*

Secretary's judgment to accomplish full implementation of the requirements of the BCDSS Health Care Initiative for all children in OHP.

Defs.' Report: In compliance. (Defs.' 69th Rep., p. 39)

IVA response: Not in full compliance.

On July 1, 2020, a five-year contract with the MATCH program was implemented. This contract included an expanded scope of work and a significant increase in funding. With these additional resources the IVA had hoped to see an increase in compliance rates for the health care measures and improved health outcomes for children in foster care. The IVA will continue to monitor for full implementation of the expanded MATCH program including health-related documentation in CJAMS.

The Defendants have not provided any documentation to support their claim of compliance related to "consultation with the medical director and the Health Care Advisory Council." As members of the Health Care Advisory Council, the IVA and Plaintiffs' counsel have not been a part of consultation on a plan, timetable or funding strategy to accomplish full implementation of the requirements of the Health Care section of the MCD.

The IVA encourages the parties to discuss this Additional Commitment and how the requirements can be met. The Council members are not selected for the purpose of developing budget requests and may not have the expertise needed for health care management. However, data has shown that some of the health needs of children in foster care continue to go unmet, and it is vital for the parties to determine if this is an issue of insufficient funding, flawed deployment of resources, or some other cause.

4. *By December 31, 2010, DHR/BCDSS shall operationalize a system to meet the mental health needs of children in OHP. The system will include access to mental health screening and*

assessment as well as a continuum of treatment services designed to secure ongoing treatment that meets the needs of children in OHP. DHR/BCDSS will seek the advice and input from the Health Care Advisory Group in the development and implementation of this system.

Defs.’ Report: “This commitment is an ongoing effort for BCDSS.” (Defs.’ 69th Rep., p. 39)

IVA response: Not in full compliance.

Lack of quality mental health care services and continuity of services for children, particularly for those who experience placement instability, has been a long-standing problem. The Defendants have attached a copy of their Behavioral Health Plan, dated November 30, 2022, to their report. (Defs.’ 69th Rep., Att. 4). See IVA’s Response to Defs.’ 69th Report, p. 24, for further discussion.

Defendant DHS’ failure over the past decade to accomplish the promised rate reform, which would separate the payment of board costs to private foster care agencies from the payment for services such as mental health, continues to have a negative impact on meeting the goals of this Additional Commitment and, more importantly, the needs of the children in OHP.

4. Education

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

Defs.’ Report: No clear statement of compliance. (Defs.’ 68th Rep., p. 66)

IVA response: Insufficient information and documentation to determine compliance.

Defendants continue to reference a Memorandum of Agreement with Baltimore City that they provided with their 63rd Report. However, as Defendants recognize, there are Baltimore City children enrolled in other school districts across the state. Defendants do not present any documentation of how they work with the other school systems to ensure educational stability and timely enrollment. Defendants state only that a “draft agreement with other Local Education Agencies has been developed and forwarded to BCDSS Legal Services for review.”

As far back as the 63rd report, the IVA raised the concern that the School Placement Stabilization Memo contains a disturbing error. The memo provides, “The OOE specialist is responsible for completing the BID [Best Interests Determination] form within five business days of being assigned the case” and “[i]f a student must transfer, then the OOE specialist will enroll the youth in the new school five business days of the completion of the BID (Best Interests Determinations Form).” These provisions would appear to permit enrollment of a child more than ten business days from entry into OHP, double the five days required by *L.J.* and Maryland regulations. The Defendants have not addressed this issue in any of their reports since that it was raised in the IVA’s Response to Defendants’ 63rd Report (August 6, 2020), and it is not known if this form has been amended.