REPORT OF THE INDEPENDENT REVIEWER

ON COMPLIANCE

WITH THE

SETTLEMENT AGREEMENT

UNITED STATES v. COMMONWEALTH OF VIRGINIA

United States District Court for
Eastern District of Virginia

Civil Action No. 3:12 CV 059

April 7, 2014 – October 6, 2014

Respectfully Submitted By

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Independent Reviewer
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EXECUTIVE SUMMARY

This is the Independent Reviewer's fifth report on the status of compliance in the Settlement Agreement (Agreement) between the Commonwealth of Virginia (the Commonwealth) and the United States, represented by the Department of Justice (DOJ). This report documents and discusses the Commonwealth's efforts and the status of its compliance with its obligations, as of October 6, 2014.

The review period for this report, April 7, 2014 – October 6, 2014, approximates the first half of the third year of the Commonwealth's implementation. The Agreement's provisions due to be implemented during the first two years are components of a statewide system that addresses the Agreement's first, and overarching, service provision "to prevent unnecessary institutionalization and provide opportunities to live in the most integrated setting appropriate to their needs and consistent with … informed choice" of individuals with intellectual and developmental disabilities.

It is the Independent Reviewer's opinion that the Commonwealth has continued to make good faith efforts to implement the requirements of the Agreement. The Commonwealth has achieved compliance with many of the required provisions. Its leaders are meeting regularly and collaborating to develop and implement plans to address other requirements. Despite staff turnover during the transition to a new administration, the Commonwealth has continued its implementation efforts. This has included undertaking the complex restructuring of the Home and Community-Based Services (HCBS) waivers. The Commonwealth has created and filled several new positions and increased expertise to address areas of non-compliance. It also added new staff in leadership roles to oversee implementation. Collaboration amongst state agencies has also increased planning in supported employment and housing. Despite these efforts, however, the Commonwealth continues to be significantly behind schedule. There have been repeated delays in complying with certain obligations, including elements critical to an effective community based services system that is truly responsive to individuals with ID/DD. The following table "Summary of Compliance: Year Three - First Half" provides a rating of compliance and an explanatory comment for each provision. The Findings Section that follows the compliance table includes additional information about the compliance ratings, as do the consultant reports that are included in the Appendices of this report. Recommendations are included at the end of this report. In the coming review periods, it is essential that the Commonwealth demonstrate more substantial progress in developing and improving its programs and systems to comply with the terms of the Agreement.

Provisions that have been effectively implemented and are in compliance include: the creation of HCBS waiver slots, thus permitting an eligible individual to receive services in community settings rather than remaining on the waiting list or in an Intermediate Care Facility; increased case management and licensing oversight; discharge planning and transition services with a post-move monitoring process for individuals residing in Training Centers; an individual and family support program; and regional crisis services and crisis stabilization programs for adults with ID.

Provisions that were due and are not yet in compliance include opportunities to live in the most integrated setting; the transition of children from nursing facilities and large Intermediate Care Facilities to community placements; crisis services for children and adolescents; integrated day activities and supported employment; subsidized community living options; and an individual support planning process focused on helping individuals to learn new skills in order to become more self-sufficient. All of these provisions were to be implemented by this time. The facts gathered

during this review period, however, demonstrate that none of these requirements has been implemented sufficiently to materially impact the target population. The Commonwealth has long acknowledged that more work needs to be done in these areas.

The Parties did not include a timeline for the implementation of the components of the Quality and Risk Management system. One year ago, the Independent Reviewer retained a consultant with expertise in Quality Management to provide a baseline assessment and recommendations regarding the Commonwealth's planning and development efforts for these provisions. Prior to the last report to the Court, the Independent Reviewer informed the Parties that base line compliance determinations with the Quality and Risk Management provisions would be included in this report. The individuals in the target population and their families would have preferred that the Commonwealth have Quality and Risk Management systems fully in place when the Agreement began. The Parties both recognized that the lack of such systems limited the Commonwealth's ability to identify problems and to make quality improvements. They also recognized that building such systems is a complex undertaking. Complying with these provisions requires significant change: the development of new systems and the reform of existing ones. Although the Commonwealth has many work groups engaged in planning and implementing quality initiatives, none have been implemented sufficiently to achieve compliance with the Quality and Risk Management provisions that did not have due dates.

Implementation of the Quality and Risk Management provisions is not controlled entirely by the Commonwealth. Private providers and Community Services Boards (CSBs) are important contributors. They are the sources for much of the data essential to the functioning of the Quality and Risk management system. The Commonwealth's current regulations and historical practices are often obstacles to achieving compliance. As this review determined, before Virginia can have an effective Quality and Risk Management system, and one that complies fully with the provisions of the Agreement, it must have reliable data that are valid and are obtained from an adequate sample. The data must be consistently submitted, aggregated, and analyzed, so that trends and patterns can be identified and quality improvements planned and implemented.

In his previous Report to the Court, the Independent Reviewer determined that the Commonwealth had achieved compliance with a number of the provisions of the Agreement based on quantitative measures. It was important to recognize that the Commonwealth had successfully developed new policies, contract provisions, and programs. Furthermore, early operations of new programs are expected to be periods of learning and adjusting before quality standards are achieved. The Independent Reviewer also informed the Court, at that time, that future compliance determinations would be based increasingly on qualitative measures, i.e. whether the new and reformed programs and systems comply with the qualitative aspects of the terms of the Agreement. As a result, there are some provisions, previously reported to be in compliance with quantitative measures that are not in compliance currently with the qualitative requirements of these provisions. When DBHDS successfully implemented a web-based incident reporting system, for example, the Independent Reviewer determined that the Commonwealth was in compliance. The review this period established, however, that that the web-based incident reporting system, known as CHRIS, does not comply with the "reporting in real time" qualitative requirement of the provision. Most reports are not submitted within 24 hours as required by DBHDS, so it is now determined to not be in compliance.

By the end of this review period, the Commonwealth had created 1535 Waiver slots to allow services for individuals with ID and DD who were on urgent waiting lists, often for many years. Receiving these services has significantly improved the quality of life for these individuals and their families. During this review period, the Commonwealth remained in compliance by creating the minimum number of waiver slots required, based on the provision that allows slots funded above the prior year's minimum to be counted. During the period when these slots were created and more individuals were served, however, the number of individuals with ID/DD on the waitlists continued to increase by more than a thousand to in excess of 7500 children and adults.

Under the Agreement, through October 6, 2014, the Commonwealth has assisted 375 individuals to transition from the Training Centers to more integrated community-based settings. The vast majority of the individuals who have moved have adjusted well to their new homes and have experienced positive life outcomes. Regrettably, this has not been true for every individual. For two (7.1%) of the twenty-eight individuals studied during this period, the residential placements were unsuccessful. For both individuals, their residential service providers decided, after a few months of experiences of challenging health care or behavioral incidents, that they were not capable of meeting the individuals' complex behavioral and/or medical needs. Eventually, alternative programs were found for each individual, but both experienced traumatic incidents that might have been avoided. One man moved to a nursing facility, a level of services not needed before his move to the community.

As previously reported, and as again confirmed during this review period, the Training Centers' discharge planning and transition process and the Post-Move Monitoring process are well organized and executed. Successful implementation of these processes verifies that a provider can demonstrate the ability to support the individual in the period closely following discharge. However, these processes do not establish that a provider can ensure that its operating systems and staff competencies will be maintained consistently over time, especially during challenging periods of increased frequency and intensity of the individuals' risk factors. It continues to be critically important that the Commonwealth monitors to ensure that a residential provider maintain the staff training and supervision mechanisms to consistently implement each individual's health and safety protocols and to meet performance expectations. Monitoring should include qualified behavioral and healthcare professionals who are on-site periodically to review and to ensure provider systems are operating properly and to answer questions of support staff.

For many provisions with which it is not yet in compliance, the Commonwealth proposes the restructuring of its Home and Community-Based Services waivers as the solution. The Commonwealth has indicated that the Waivers will be restructured to change the existing service definitions and funding rates that have fostered congregation rather than integration, independence, self-sufficiency, and quality in residential and day settings. It is the Independent Reviewer's judgment that restructuring is required. It is clearly evident that substantive improvements in current community services will not be possible with the existing structure of the Home and Community-Based Services waivers.

For the Independent Reviewer's next report to the Court, due June 6, 2015, monitoring will be prioritized for the obligations in Community Living Options, Crisis Services for children, Individual and Family Support Program, behavioral support services for individuals at risk of institutionalization, and an individual review study of individuals with developmental disabilities, other than intellectual disabilities.

In summary, the implementation of the Settlement Agreement has been advanced by the Commonwealth's good faith efforts. Throughout the review period, the Commonwealth's leadership and operational staff have been accessible, forthright, and responsive. Attorneys from the Department of Justice have assisted effective implementation and have worked collaboratively with the Commonwealth. The Parties have discussed, with frankness, the issues and concerns that naturally arise when implementing new programs and reforming statewide systems of support. The involvement and contributions of the stakeholders have continued and are vitally important to successful implementation. The Independent Reviewer's appreciates greatly the assistance generously given by the individuals and their families, providers and Community Services Boards in order to permit his visits to families and to residential and day programs and to comply with his many requests for information. The Parties and the stakeholders were very helpful with candid assessments of the progress made and observations of the challenges ahead.

SUMMARY OF COMPLIANCE: YEAR THREE - FIRST HALF

Settlement Agreement Reference	Provision	Rating	Comments
III	**Serving Individuals with Developmental Disabilities In the Most Integrated Setting**	**The current rating is bolded and below the previous rating**	**Comments include examples to explain the ratings and status. The Findings Section and attached consultant reports include additional explanatory information about progress made and compliance concerns.**
III.C.1.a.i-iii.	The Commonwealth shall create a minimum of 805 waiver slots to enable individuals in the target population in the Training Centers to transition to the community according to the following schedule:	Compliance **Compliance**	The Commonwealth created 470 waiver slots during FY 2012 -2015, the minimum number required.
III.C.1.b.i-iii	The Commonwealth shall create a minimum of 2,915 waiver slots to prevent the institutionalization of individuals with intellectual disabilities in the target population who are on the urgent waitlist for a waiver, or to transition to the community individuals with intellectual disabilities under 22 years of age from institutions other than the Training Centers (i.e., ICFs and nursing facilities). In State Fiscal Year 2015, 225 waiver slots, including 25 slots prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs.	Compliance **Non Compliance**	The Commonwealth created 1175 waiver slots during FY 2012 - 2015, 200 more than the minimum required of 975. It only created 25 in FY 2015. The Commonwealth maintained compliance by counting slots created above the requirement in the prior year, as allowed by *III.C.1.d* The Commonwealth reports that it did prioritize and has slots available, but that it did not finalize or implement its plan to transition individuals with ID under age 22 years.

Settlement Agreement Reference	Provision	Rating	Comments
III.C.1.c.i-iii.	The Commonwealth shall create a minimum of 450 waiver slots to prevent the institutionalization of individuals with developmental disabilities other than intellectual disabilities in the target population who are on the waitlist for a waiver, or to transition to the community individuals with developmental disabilities other than intellectual disabilities under 22 years of age from institutions other than the Training Centers (i.e., ICFs and nursing facilities). In State Fiscal Year 2014, 25 waiver slots, including 15 prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs	Compliance **Non Compliance**	The Commonwealth created 360 waiver slots between FY 2012 and FY 2015 for individuals with DD, other than ID, and met the quantitative requirements of this provision. This exceeds by 135 the minimum required 225 waiver slots. The Commonwealth did not finalize or implement a plan to utilize prioritized slots to transition individuals with DD, other than ID, under 22 years of age, residing in nursing homes and the largest ICFs.
III.C.2.a-b	The Commonwealth shall create an individual and family support program for individuals with ID/DD whom the Commonwealth determines to be the most at risk of institutionalization. In the State Fiscal Year 2015, a minimum of 1000 individuals supported.	Compliance **Compliance**	The Commonwealth met the quantitative requirement by supporting 1294 Individuals in FY 2014. The FY 2015 funding is available with distribution planned in two phases. Two qualitative requirements have not been reviewed: 1. the good faith effort to determine who is most at risk of institutionalization, and 2. whether the current program fulfills requirements for this program, as defined in Section II.D.
III.C.5.a	The Commonwealth shall ensure that individuals receiving HCBS waiver services under this Agreement receive case management.	Compliance **Compliance**	□ 55 (100%) of the individuals studied during the past two report periods were receiving case management. □ 53 (93.4%) of 55 had current ISPs.
III.C.5.b.	For the purpose of this agreement, case management shall mean:		

Settlement Agreement Reference	Provision	Rating	Comments
III.C.5.b.i.	Assembling professionals and nonprofessionals who provide individualized supports, as well as the individual being served and other persons important to the individual being served, who, through their combined expertise and involvement, develop Individual Support Plans ("ISP") that are individualized, person-centered, and meet the individual's needs.	Non Compliance **Non Compliance**	Of individuals studied during the prior two periods □ 12 (63.6%) of 18 had not had ISPs modified in response to a major event for the individuals. During the fourth period □ 7 (87.5%) of 8 individuals who engaged in aggressive, dangerous, and disruptive behaviors were not receiving needed behavioral support services.
III.C.5.b.ii	Assisting the individual to gain access to needed medical, social, education, transportation, housing, nutritional, therapeutic, behavioral, psychiatric, nursing, personal care, respite, and other services identified in the ISP.	Non Compliance **Non Compliance**	Of the individuals studied: □ 8 (34.8%) of 23 did not have day/employment services; □ only 3 (12%) of 25 discussed employment goals; □ only 1 (3.6%) of 26 was offered integrated day activities.
III.C.5.b.iii	Monitoring the ISP to make timely additional referrals, service changes, and amendments to the plans as needed.	Non Compliance **Non Compliance**	Same as two comments above. The Commonwealth has developed plans to improve the ISP and case management monitoring during the next review period.
III.C.5.c	Case management shall be provided to all individuals receiving HCBS waiver services under this Agreement by case managers who are not directly providing such services to the individual or supervising the provision of such services. The Commonwealth shall include a provision in the Community Services Board ("CSB") Performance Contract that requires CSB case managers to give individuals a choice of service providers from which the individual may receive approved waiver services and to present practicable options of service providers based on the preferences of the individual, including both CSB and non-CSB providers.	Compliance **Non Compliance**	There was no evidence found that case managers provided direct services, other than case management. A provision is included in the "FY 2015 Community Services Performance Contract" with the requirement to offer choice. This contract provision does not, however, give individuals a choice of CSB case managers.

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III.C.5.d	The Commonwealth shall establish a mechanism to monitor compliance with performance standards.	Non Compliance **Non Compliance**	The DBHDS Office of Licensing's monitoring protocols utilized during the review period did not align with the Agreement's requirements and its review process was not adequate to determine compliance. The Commonwealth plans to implement a revised three-part monitoring mechanism.
III.C.6.a.i-iii	The Commonwealth shall develop a statewide crisis system for individuals with intellectual and developmental disabilities.	Non Compliance **Non Compliance**	Crisis services for adults with ID/DD have been developed. For children and adolescents, standards for statewide crisis services were not finalized and crisis services were not provided. Only three (60%) of the five Regions submitted a gap analysis. All identified gaps that include the lack of: funding, crisis staff, mobile response, and trained providers and law enforcement personnel.
III.C.6.b.i.A	The Commonwealth shall utilize existing CSB Emergency Service, including existing CSB hotlines, for individuals to access information about referrals to local resources. Such hotlines shall be operated 24 hours per day, 7 days per week.	Compliance **Compliance**	All regions' REACH crisis response services continue to be available 24 hours per day based on reports from DBHDS and REACH. Referrals have occurred during business, evening and weekend hours.
III.C.6.b.i.B	By June 30, 2012, the Commonwealth shall train CSB Emergency Services personnel in each Health Planning Region on the new crisis response system it is establishing, how to make referrals, and the resources that are available.	Compliance **Compliance**	REACH programs continue to train CSB Emergency Services staff and report quarterly.
III.C.6.b.ii.A.	Mobile crisis team members adequately trained to address the crisis shall respond to individuals at their homes and in other community settings and offer timely assessment, services, support, and treatment to de-escalate crises without removing individuals from their current placement whenever possible.	Compliance **Compliance**	Evidence based training was provided to all regions' REACH programs by START staff during the first half of this review period. Maintaining compliance will depend on training requirements being defined in the statewide standard and being provided.

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III.C.6.b.ii.B	Mobile crisis teams shall assist with crisis planning and identifying strategies for preventing future crises and may also provide enhanced short-term capacity within an individual's home or other community setting.	Compliance **Non Compliance**	REACH Teams continue to provide crisis response, crisis intervention, and crisis planning. A rating of Non-compliance results from DBHDS not providing data related to the delivery of these services for the second half of the review period.
III.C.6.b.ii.C	Mobile crisis team members adequately trained to address the crisis also shall work with law enforcement personnel to respond if an individual with ID/DD comes into contact with law enforcement.	Non Compliance **Non Compliance**	The Commonwealth's statewide crisis system has not developed a plan, training, or other guidance for work with law enforcement personnel to resolve crises and prevent institutionalization.
III.C.6.b.ii.D	Mobile crisis teams shall be available 24 hours per day, 7 days per week and to respond on-site to crises.	Compliance **Non Compliance**	All Regions' REACH mobile crisis teams operate at all hours. DBHDS cannot report information that is sufficient to determine compliance, i.e. where crisis assessments were conducted during the first quarter of FY15. This needs to be a data element in the new reporting tool the DBHDS is designing.
III.C.6.b.ii.E	Mobile crisis teams shall provide local and timely in home crisis support for up to three days, with the possibility of an additional period of up to 3 days upon review by the Regional Mobile Crisis Team Coordinator	Non Compliance **Compliance**	The Commonwealth is now providing data on the amount of time that is devoted to a particular individual. All but one region provided individuals with more than an <u>average</u> of three days of in-home support services.
III.C.6.b.ii.G	By June 30, 2013, the Commonwealth shall have at least two mobile crisis teams in each Region that shall respond to on-site crises within two hours.	Non Compliance **Non Compliance**	The Commonwealth has not created new teams. Regions added staff to existing teams to improve response time. For the first half of the review period, 42 (55%) of 77 crisis responses either exceeded two hours (34) or were not documented (8). Improvements during the second half led to fewer responses that exceeded two hours. Two regions always responded within two hours.

Settlement Agreement Reference	Provision	Rating	Comments
III.C.6.b.ii.H	By June 30, 2014, the Commonwealth shall have a sufficient number of mobile crisis teams in each Region to respond on site to crises as follows: in urban areas, within one hour, and in rural areas, within two hours, as measured by the average annual response time.	Not due **Compliance**	Average response times have met this standard. See immediately above for responses to individual crisis calls.
III.C.6.b.iii.A.	Crisis Stabilization programs offer a short-term alternative to institutionalization or hospitalization for individuals who need inpatient stabilization services	Compliance **Compliance**	All Regions continue to have crisis stabilization programs that are providing short-term alternatives.
III.C.6.b.iii.B.	Crisis stabilization programs shall be used as a last resort. The State shall ensure that, prior to transferring an individual to a crisis stabilization program, the mobile crisis team, in collaboration with the provider, has first attempted to resolve the crisis to avoid an out-of-home placement and if that is not possible, has then attempted to locate another community-based placement that could serve as a short-term placement.	Compliance **Compliance**	Crisis stabilization programs continue to be used as last resort; teams attempt to resolve crises and avoid out-of home placements. Vacancies in homes of other individuals are not pursued (see directly below).
III.C.6.b.iii.C.	If an individual receives crisis stabilization services in a community-based placement instead of a crisis stabilization unit, the individual may be given the option of remaining in the placement if the provider is willing and has capacity to serve the individual and the provider can meet the needs of the individual as determined by the provider and the individual's case manager.	Deferred **Deferred**	The Parties have not yet determined whether this provision should remain. Placing individuals who are in crises into the homes of other individuals with ID/DD is not a recommended practice.
III.C.6.b.iii.D.	Crisis stabilization programs shall have no more than six beds and lengths of stay shall not exceed 30 days.	Compliance **Compliance**	All five Regions' crisis stabilization programs continue to comply.
III.C.6.b.iii.E.	With the exception of the Pathways Program at SWVTC … crisis stabilization programs shall not be located on the grounds of the Training Centers or hospitals with inpatient psychiatric beds.	Substantial Compliance **Substantial Compliance**	Three Regions' stabilization programs are not located on institution grounds and are in compliance. Region IV's expected progress did not occur. To maintain a rating of Substantial Compliance requires the Region IV crisis stabilization program secure a permanent compliant location.
III.C.6.b.iii.F.	By June 30, 2012, the Commonwealth shall develop one crisis stabilization program in each Region.	Compliance **Compliance**	Each Region developed and currently maintains a crisis stabilization program.

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III.C.6.b.iii.G.	By June 30, 2013, the Commonwealth shall develop an additional crisis stabilization program in each Region as determined necessary by the Commonwealth to meet the needs of the target population in that Region.	Compliance **Compliance**	Each Region's existing crisis stabilization program had unused bed days available in both Quarters. The Regions have enough capacity to assist other regions when their own crisis stabilization beds are not all occupied.
III.C.7.a	To the greatest extent practicable, the Commonwealth shall provide individuals in the target population receiving services under this Agreement with integrated day opportunities, including supported employment.	Non Compliance **Non Compliance**	Of individuals studied: 25 (96.2/5%) of 26 were not offered integrated activities, 23 (88.0%) of 25 did not have employment goals developed and discussed.
III.C.7.b	The Commonwealth shall maintain its membership in the State Employment Leadership Network ("SELN") established by the National Association of State Developmental Disabilities Directors. The Commonwealth shall establish a state policy on Employment First for the target population and include a term in the CSB Performance Contract requiring application of this policy.	Compliance **Non Compliance**	The Commonwealth has maintained membership in SELN, established an Employment First policy, and included the policy as a requirement in its Performance Contracts with CSBs. It also has an employment service coordinator. The CSBs are not, however, effectively complying with the required contract provision.
III.C.7.b.i.	Within 180 days of this Agreement, the Commonwealth shall develop, as part of its Employment First Policy, an implementation plan to increase integrated day opportunities for individuals in the target population, including supported employment, community volunteer activities, community recreational opportunities, and other integrated day activities.	Non Compliance **Non Compliance**	The Commonwealth updated its preliminary plan, but has not developed a full implementation plan for integrated day activities. Implementation has not meaningfully increased integrated day activities or supported employment.
III.C.7.b.i.A.	Provide regional training on the Employment First policy and strategies through the Commonwealth.	Compliance **Compliance**	The employment services coordinator provided numerous trainings to more than 640 individuals.
III.C.7.b.i.B.1.	Establish, for individuals receiving services through the HCBS waivers annual baseline information re:		
III.C.7.b.i.B.1.a.	The number of individuals who are receiving supported employment	Compliance **Compliance**	The Commonwealth provided annual baseline information.

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III.C.7.b.i.B.1.b.	The length of time individuals maintain employment in integrated work settings.	Compliance **Non Compliance**	The Commonwealth provided duplicative data. The length of time could not be reliably determined.
III.C.7.b.i.B.1.c.	Amount of earnings from supported employment;	Non Compliance **Non Compliance**	The Commonwealth continues to not provide annual information.
III.C.7.b.i.B.1.d.	The number of individuals in pre-vocational services	Compliance **Compliance**	The Commonwealth continued to provide annual baseline information.
III.C.7.b.i.B.1.e.	The length of time individuals remain in pre-vocational services.	Compliance **Compliance**	The Commonwealth continued to provide annual baseline information.
III.C.7.b.i.B.2.a.	Targets to meaningfully increase: the number of individuals who enroll in supported employment each year	Compliance **Compliance**	The Commonwealth has set targets to meaningfully increase by 5% annually for five years.
III.C.7.b.i.B.2.b.	The number of individuals who remain employed in integrated work settings at least 12 months after the start of supported employment.	Compliance **Compliance**	The Commonwealth has set the target of 85% of the number of individuals in supported employment to remain employed for at least 12 months. Lack of meaningful progress supporting individuals to remain employed is addressed in III.C.7.b.i.
III.C.7.c.	Regional Quality Councils (RQC), described in V.D.5. … shall review data regarding the extent to which the targets identified in Section III.C.7.b.i.B.2 above are being met. These data shall be provided quarterly … Regional Quality Councils shall consult with providers with the SELN regarding the need to take additional measures to further enhance these services.	Deferred **Non Compliance**	The draft minutes of the RQC meetings did not reflect substantive discussions of the targets and there is no evidence that the RQCs consulted with the SELN or providers.
III.C.7.d	The Regional Quality Councils shall annually review the targets set pursuant to Section III.C.7.b.i.B.2 above and shall work with providers and the SELN in determining whether the targets should be adjusted upward.	Deferred **Non Compliance**	Same as immediately above
III.C.8.a.	The Commonwealth shall provide transportation to individuals receiving HCBS waiver services in the target population in accordance with the Commonwealth's HCBS Waivers.	Compliance **Compliance**	Of the Individuals studied over two review periods, 51 (96.4%) of 53 were receiving transportation services. Quality has not been assessed.

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III.C.8.b.	The Commonwealth shall publish guidelines for families seeking intellectual and developmental disability services on how and where to apply for and obtain services. The guidelines will be updated annually and will be provided to appropriate agencies for use in directing individuals in the target population to the correct point of entry to access services.	Non Compliance **Non Compliance**	The Commonwealth completed draft guidelines in June 2013. It reported that updated guidelines were drafted that addresses ID waiver services, but not DD waiver services or other disability services. The updated guidelines were not published or provided to appropriate agencies during the review period.
III.D.1.	The Commonwealth shall serve individuals in the target population in the most integrated setting consistent with their informed choice and needs.	Non Compliance **Non Compliance**	Individuals are primarily offered congregate settings. Of individuals studied this period 15 (53.7%) of 28 individuals reviewed moved to settings with a home of five or more, or to a setting with more than one group home. None (0%) was offered housing assistance to live in his/her own home or apartment.
III.D.2.	The Commonwealth shall facilitate individuals receiving HCBS waivers under this Agreement to live in their own home, leased apartment, or family's home, when such a placement is their informed choice and the most integrated setting appropriate to their needs. To facilitate individuals living independently in their own home or apartment, the Commonwealth shall provide information about and make appropriate referrals for individuals to apply for rental or housing assistance and bridge funding through all existing sources…	Non Compliance **Non Compliance**	None (0%) of the 39 individuals studied during the fourth and fifth review periods, who were not living with their families, were referred for rental assistance to live in their own home or apartment. See comments immediately above.
III.D.3.	Within 365 days of this Agreement, the Commonwealth shall develop a plan to increase access to independent living options such as individuals' own homes or apartments.	Non Compliance **Non Compliance**	The Commonwealth developed a plan. It has not meaningfully increased access to independent living options. After eighteen months of implementing the plan's action items, only two individuals are reported to have accessed housing units.

Settlement Agreement Reference	Provision	Rating	Comments
III.D.3.a.	The plan will be developed under the direct supervision of a dedicated housing service coordinator for the Department of Behavioral Health and Developmental Services ("DBHDS") and in coordination with representatives from the Department of Medical Assistance Services ("DMAS"), Virginia Board for People with Disabilities, Virginia Housing Development Authority, Virginia Department of Housing and Community Development, and other organizations ...	Compliance **Compliance**	A DBHDS housing service coordinator developed the plan with these representatives, and others.
III.D.3.b.i-ii	The plan will establish, for individuals receiving or eligible to receive services through the HCBS waivers under this Agreement: Baseline information regarding the number of individuals who would choose the independent living options described above, if available; and Recommendations to provide access to these settings during each year of this Agreement.	Non Compliance **Non Compliance**	The Commonwealth estimated through FY15 the number of individuals who would choose independent living options. Recommendations to provide access to these settings each year were not provided.
III.D.4	Within 365 days of this Agreement, the Commonwealth shall establish and begin distributing, from a one-time fund of $800,000 to provide and administer rental assistance in accordance with the recommendations described above in Section III.D.3.b.ii.	Non Compliance **Compliance**	The Commonwealth has established the one-time fund. Distribution of the funds began. During the review period two individual were provided rental assistance.
III.D.5	Individuals in the target population shall not be served in a sponsored home or any congregate setting, unless such placement is consistent with the individual's choice after receiving options for community placements, services, and supports consistent with the terms of Section IV.B.9 below.	Non Compliance **Non Compliance**	Studies during the past year found that 27 (90%) of 30 individuals who moved from Training Centers to placements that were consistent with the individual's, or if applicable, the Authorized Representative's, choice after receiving options. The Independent Reviewer has determined that options received were not consistent with the terms of Section IV.B.9.b.

Settlement Agreement Reference	Provision	Rating	Comments
III.D.6	No individual in the target population shall be placed in a nursing facility or congregate setting with five or more individuals unless such placement is consistent with the individual's needs and informed choice and has been reviewed by the Region's Community Resource Consultant and, under circumstances described in Section III.E below, the Regional Support Team.	Compliance **Compliance**	The individuals reviewed moved to congregate settings that were consistent with the individuals' needs and informed choice. For many individuals who chose larger congregate settings, barriers were identified to less integrated settings.
III.D.7	The Commonwealth shall include a term in the annual performance contract with the CSBs to require case managers to continue to offer education about less restrictive community options on at least an annual basis to any individuals living outside their own home or family's home …	Compliance **Compliance**	This term has been included in the Commonwealth's "FY 2015 Community Services Performance Contract."
III.E.1	The Commonwealth shall utilize Community Resource Consultant ("CRC") positions located in each Region to provide oversight and guidance to CBSs and community providers, and serve as a liaison between the CSB case managers and DBHDS Central Office…The CRCs shall be a member of the Regional Support Team in the appropriate Region.	Compliance **Compliance**	Community Resource Consultants are located in and are members of the Regional Support Team in each Region and are utilized for these functions.
III.E.2	The CRC may consult at any time with the Regional Support Team. Upon referral to it, the Regional Support Team shall work with the Personal Support Team ("PST") and CRC to review the case, resolve identified barriers, and ensure that the placement is the most integrated setting appropriate to the individual's needs, consistent with the individual's informed choice. The Regional Support Team shall have the authority to recommend additional steps by the PST and/or CRC.	Non Compliance **Non Compliance**	The CRCs referred individuals to the RSTs. CRC's and CIMs submitted some referrals after choices were made. The RSTs did not resolve identified barriers to living in most integrated residential or day options. These barriers include: the lack of: nursing and behavioral supports, most integrated homes and day options available, sponsored homes in the area, and the long distance to the available programs.

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III.E.3.a-d	The CRC shall refer cases to the Regional Support Teams (RST) for review, assistance in resolving barriers, or recommendations whenever (specific criteria are met)	Compliance **Compliance**	DBHDS established the RSTs, which meet monthly. The CRCs refer cases to the RSTs regularly. RSTs frequently recommend more integrated options. See III.E.2. immediately above regarding the RST's ability to resolve barriers.
IV	**Discharge Planning and Transition**		
IV.	By July 2012, the Commonwealth will have implemented Discharge and Transition Planning processes at all Training Centers consistent with the terms of this section	Compliance **Compliance**	Discharge planning and transition processes were implemented by July 2012. Improvements have occurred in response to concerns identified by the Independent Reviewer.
IV.A	To ensure that individuals are served in the most integrated setting appropriate to their needs, the Commonwealth shall develop and implement discharge planning and transition processes at all Training Centers consistent with the terms of this Section and person-centered principles.	Non Compliance **Non Compliance**	Most integrated residential and day options for individuals with complex needs are often not available. A sponsored home that meets an individual's needs is often not offered in most regions.
IV.B.3.	Individuals in Training Centers shall participate in their treatment and discharge planning to the maximum extent practicable, regardless of whether they have authorized representatives. Individuals shall be provided the necessary support (including, but not limited to, communication supports) to ensure that they have a meaningful role in the process.	Compliance **Compliance**	Two recent Individual Review studies found that 55 (100%) of individuals and their authorized representatives participated. Staff are trained to present information; a support staff, familiar with the individual and his/her means of communication, provides communication support.
IV.B.4.	The goal of treatment and discharge planning shall be to assist the individual in achieving outcomes that promote the individual's growth, well being, and independence, based on the individual's strengths, needs, goals, and preferences, in the most integrated settings in all domains of the individual's life (including community living, activities, employment, education, recreation, healthcare, and relationships).	Non Compliance **Non Compliance**	Two recent Individual Review studies found that the treatment goals in the support plans of 35 (63.6%) of 55 individuals did not include outcomes that led to skill development. For only four (8.9%) of 45 individuals were employment goals discussed or integrated day opportunities offered. Discharge plan lists of what is

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			important "to" and "for" the individuals rarely included growth, skill development and increased independence.
IV.B.5.	The Commonwealth shall ensure that discharge plans are developed for all individuals in its Training Centers through a documented person-centered planning and implementation process and consistent with the terms of this Section. The discharge plan shall be an individualized support plan for transition into the most integrated setting consistent with informed individual choice and needs and shall be implemented accordingly. The final discharge plan (developed within 30 days prior to discharge) will include:	Compliance **Compliance**	Two recent Individual Review studies found that all 30 (100%) of the individuals studied had discharge plans. DBHDS tracks this information and reports that all residents of Training Centers have discharge plans.
IV.B.5.a.	Provision of reliable information to the individual and, where applicable, the authorized representative, regarding community options in accordance with Section IV.B.9;	Compliance **Compliance**	Documentation of information provided was present in the discharge records that were studied of 55 (94.8%) of the 58 individuals during the three recent review periods.
IV.B.5.b.	Identification of the individual's strengths, preferences, needs (clinical and support), and desired outcomes;	Compliance **Compliance**	The discharge plans continue to include this information.
IV.B.5.c.	Assessment of the specific supports and services that build on the individual's strengths and preferences to meet the individual's needs and achieve desired outcomes, regardless of whether those services and supports are currently available;	Compliance **Compliance**	The discharge records for 26 (96.3%) of 27 individuals reviewed this period included the assessments.
IV.B.5.d.	Listing of specific providers that can provide the identified supports and services that build on the individual's strengths and preferences to meet the individual's needs and achieve desired outcomes;	Compliance **Compliance**	The PST's select and list specific providers that can provide identified supports and services.
IV.B.5.e.	Documentation of barriers preventing the individual from transitioning to a more integrated setting and a plan for addressing those barriers.	Compliance **Compliance**	Barriers are documented on the Regional Support Team data collection sheet.
IV.B.5.e.i.	Such barriers shall not include the individual's disability or the severity of the disability.	Compliance **Compliance**	No evidence has been found that an individual's disability or the severity of the disability is a barrier in the discharge plans.

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IV.B.5.e.ii.	For individuals with a history of re-admission or crises, the factors that led to re-admission or crises shall be identified and addressed.	Deferred **Non Compliance**	Reviews of the factors that led to readmission did not occur for two (66.7%) of the three individuals who were readmitted during the previous two report periods. The Commonwealth plans to implement a new process in the next review period.
IV.B.6	Discharge planning will be done by the individual's PST…Through a person-centered planning process, the PST will assess an individual's treatment, training, and habilitation needs and make recommendations for services, including recommendations of how the individual can be best served.	Deferred **Non Compliance**	The individual review study found that the discharge plans lacked recommendations for how individuals can be best served. Discharge plan descriptions of what was important "to" and "for" the individual" did not include skill development to increase self-sufficiency or integrated day opportunities.
IV.B.7	Discharge planning shall be based on the presumption that, with sufficient supports and services, all individuals (including individuals with complex behavioral and/or medical needs) can live in an integrated setting.	Compliance **Compliance**	Individual review studies have not found evidence in discharge plans that complex needs are considered barriers to living in an integrated setting.
IV.B.9.	In developing discharge plans, PSTs, in collaboration with the CSB case manager, shall provide to individuals and, where applicable, their authorized representatives, specific options for types of community placements, services, and supports based on the discharge plan as described above, and the opportunity to discuss and meaningfully consider these options.	Compliance **Compliance**	Individual reviews during the past 6 months found that 28 (100%) of individuals studied and their ARs were provided with information regarding community options and the opportunity to discuss them with the PST.
	The individual shall be offered a choice of providers consistent with the individual's identified needs and preferences.	Compliance **Compliance**	Discharge records of individuals reviewed included evidence that a choice of providers was offered.
IV.B.9.b.	PSTs and the CSB case manager shall coordinate with the specific type of community providers identified in the discharge plan as providing appropriate community-based services for the individual, to provide individuals, their families, and, where applicable, their authorized representatives with opportunities to speak with those providers, visit community	Non Compliance **Non Compliance**	Two recent Individual Review studies found that 10 (35.7%) of 28 individuals and their ARs did not have an opportunity to speak with individuals currently living in their communities and their family members. DBHDS has developed a family-to-family

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	placements (including, where feasible, for overnight visits) and programs, and facilitate conversations and meetings with individuals currently living in the community and their families, before being asked to make a choice regarding options. The Commonwealth shall develop family-to-family peer programs to facilitate these opportunities.		and peer program. Packets of information are sent to ARs. Frequently, Case Managers' and Social Worker notes, however, did not include discussions to facilitate opportunities to speak with individuals and their families.
IV.B.9.c.	PSTs and the CSB case managers shall assist the individual and, where applicable, their authorized representative in choosing a provider after providing the opportunities described above and ensure that providers are timely identified and engaged in preparing for the individual's transition.	Compliance **Compliance**	Discharge records indicate that individuals and their authorized representative were assisted and that providers were identified and engaged. For 27 (96.4%) of 28 individuals studied this period, the provider staff was trained in support plan protocols that were transferred to the community.
IV.B.11.	The Commonwealth shall ensure that Training Center PST's have sufficient knowledge about community services and supports to: propose appropriate options about how an individual's needs could be met in a more integrated setting; present individuals and their families with specific options for community placements, services, and supports; and, together with providers, answer individuals' and families' questions about community living.	Compliance **Compliance**	The individual services studied this period found that 28 (100%) who transitioned from Training Centers were provided with information regarding community options.
IV.B.11.a.	In collaboration with the CSB and Community providers, the Commonwealth shall develop and provide training and information for Training Center staff about the provisions of the Agreement, staff obligations under the Agreement, current community living options, the principles of person-centered planning, and any related departmental instructions. The training will be provided to all applicable disciplines and all PSTs.	Compliance **Compliance**	At all Training Centers, training has been provided via regular orientation, monthly, and ad hoc events, and ongoing information sharing.

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IV.B.11.b.	Person-centered training will occur during initial orientation and through annual refresher courses. Competency will be determined through documented observation of PST meeting and through the use of person-centered thinking coaches and mentors. Each Training Center will have designated coaches who receive additional training. The coaches will provide guidance to PSTs to ensure implementation of the person-centered tools and skills. Coaches throughout the state will have regular and structured sessions and person-centered thinking mentors. These sessions will be designed to foster additional skill development and ensure implementation of person centered thinking practices throughout all levels of the Training Centers	Compliance **Compliance**	All staff receive required person-centered training during orientation and receives annual refresher training. All Training Centers have person-centered coaches. DBHDS reports that regularly scheduled conferences provide opportunities to meet with mentors.
IV.B.15	In the event that a PST makes a recommendation to maintain placement at a Training Center or to place an individual in a nursing home or congregate setting with five or more individuals, the decision shall be documented, and the PST shall identify the barriers to placement in a more integrated setting and describe in the discharge plan the steps the team will take to address the barriers. The case shall be referred to the Community Integration Manager and Regional Support Team in accordance with Sections IV.D.2.a and f and IV.D.3 and such placements shall only occur as permitted by Section IV.C.6.	Deferred **Non Compliance**	See Comment for IV.D.3.
IV.C.1	Once a specific provider is selected by an individual, the Commonwealth shall invite and encourage the provider to actively participate in the transition of the individual from the Training Center to the community placement.	Compliance **Compliance**	For 27 (96.4%) of 28 individuals studied during this review period, the residential provider staff were trained in support plan protocols that were transferred to the community and participated in the pre-move ISP meeting.

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IV.C.2	Once trial visits are completed, the individual has selected a provider, and the provider agrees to serve the individual, discharge will occur within 6 weeks, absent conditions beyond the Commonwealth's control. If discharge does not occur within 6 weeks, the reasons it did not occur will be documented and a new time frame for discharge will be developed by the PST.	Compliance **Compliance**	25 (89.3%) of 28 individuals studied during this review period moved within 6 weeks, or reasons were documented and new time frames developed.
IV.C.3	The Commonwealth shall develop and implement a system to follow up with individuals after discharge from the Training Centers to identify gaps in care and address proactively any such gaps to reduce the risk of re-admission, crises, or other negative outcomes. The Post Move Monitor, in coordination with the CSB, will conduct post-move monitoring visits within each of three (3) intervals (30, 60, and 90 days) following an individual's movement to the community setting. Documentation of the monitoring visit will be made using the Post Move Monitoring Checklist. The Commonwealth shall ensure those conducting Post Move Monitoring are adequately trained and a reasonable sample of look-behind Post Move Monitoring is completed to validate the reliability of the Post Move Monitoring process.	Compliance **Non Compliance**	The Commonwealth has a well-organized post move monitoring (PMM) process with increased frequency during the first weeks after transitions. PMM Monitors were adequately trained. Individual review studies found that for 28 (100%) individuals, PMM visits had occurred and monitoring checklists were used. The Independent Reviewer determined non-compliance because the Commonwealth has not implemented the required look-behind process with a sample that is sufficient to validate the reliability of the PMM process.
IV.C.4	The Commonwealth shall ensure that each individual transitioning from a Training Center shall have a current discharge plan, updated within 30 days prior to the individual's discharge.	Compliance **Compliance**	Two recent Individual Review studies found that for 28 (93.3%) of 30 individuals, The Commonwealth updated discharge plans within 30 days prior to discharge.
IV.C.5	The Commonwealth shall ensure that the PST will identify all needed supports, protections, and services to ensure successful transition in the new living environment, including what is most important to the individual as it relates to community placement. The Commonwealth, in consultation with the PST, will determine the essential supports needed for successful and optimal community placement. The Commonwealth shall ensure that essential supports are in place at the individual's community placement prior to the individual's discharge ...	Compliance **Non Compliance**	For 8 (28.6%) of 28 individuals whose services were studied, the Commonwealth did not ensure that all essential supports were in place prior to discharge.

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IV.C.6	No individual shall be transferred from a Training Center to a nursing home or congregate setting with five or more individuals unless placement in such a facility is in accordance with the individual's informed choice after receiving options for community placements, services, and supports and is reviewed by the Community Integration Manager to ensure such placement is consistent with the individual's informed choice.	Compliance **Compliance**	The discharge records reviewed throughout two review periods indicated that individuals, who moved to settings of five or more, did so based on their informed choice after receiving options.
IV.C.7	The Commonwealth shall develop and implement quality assurance processes to ensure that discharge plans are developed and implemented, in a documented manner, consistent with the terms of this Agreement. These quality assurance processes shall be sufficient to show whether the objectives of this Agreement are being achieved. Whenever problems are identified, the Commonwealth shall develop and implement plans to remedy the problems.	Compliance **Compliance**	Documented Quality Assurance processes have been implemented consistent with the terms of the Agreement. When problems have been identified, corrective actions have occurred with the discharge plans.
IV.D.1	The Commonwealth will create Community Integration Manager ("CIM") positions at each operating Training Center.	Compliance **Compliance**	Community Integration Managers are working at each Training Center.
IV.D.2.a	CIMs shall be engaged in addressing barriers to discharge, including in all of the following circumstances: The PST recommends that an individual be transferred from a Training Center to a nursing home or congregate setting with five or more individuals;	Compliance **Compliance**	CIMs have reviewed PST recommendations for individuals to be transferred to settings of five or more.
IV.D.3	The Commonwealth will create five Regional Support Teams, each coordinated by the CIM. The Regional Support Teams shall be composed of professionals with expertise in serving individuals with developmental disabilities in the community, including individuals with complex behavioral and medical needs. Upon referral to it, the Regional Support Team shall work with the PST and CIM to review the case and resolve identified barriers. The Regional Support Team shall have the authority to recommend additional steps by the PST and/or CIM.	Compliance **Non Compliance**	The Commonwealth has created five Regional Support Teams. All RSTs are operating and receiving referrals. The Individual Review study this period found that for only one (16.6%) of the six individuals referred were steps taken to resolve barriers. Referrals have occurred after individuals have moved to less integrated settings, after a selected list of providers, i.e. recommendations, has been presented, and after the AR has made a choice.

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IV.D.4.	The CIM shall provide monthly reports to DBHDS Central Office regarding the types of placements to which individuals have been placed …	Compliance **Compliance**	The CIMs provide monthly reports and the Commonwealth provides the aggregated information to the Reviewer and DOJ.
V.	**Quality and Risk Management**		**Section (V.) includes baseline compliance ratings for provisions without due dates.**
V.B.	The Commonwealth's Quality Management System shall: identify and address risks of harm; ensure the sufficiency, accessibility, and quality of services to meet individuals' needs in integrated settings; and collect and evaluate data to identify and respond to trends to ensure continuous quality improvement.	Deferred **Non Compliance**	The Commonwealth's planning documents continue to indicate that providers will not be required to report a complete list of significant risks of harm. Future determinations of compliance depend, in part, on identifying, reporting, and addressing risks of harm.
V.C.1	The Commonwealth shall require that all Training Centers, CSBs, and other community providers of residential and day services implement risk management processes, including establishment of uniform risk triggers and thresholds, that enable them to adequately address harms and risks of harm.	Deferred **Non Compliance**	The required list of risks and triggers does not include all significant harm and risks of harm. Many of the identified "risks," actually require harm to have occurred, rather than identifying events that increase risk of harm.
V.C.2	The Commonwealth shall have and implement a real time, web-based incident reporting system and reporting protocol.	Compliance **Non Compliance**	A web based incident reporting system and reporting protocol was implemented. The protocol does not comply with the qualitative measure for real time reporting. Most reports are not submitted within the required 24 hours.
V.C.3	The Commonwealth shall have and implement a process to investigate reports of suspected or alleged abuse, neglect, critical incidents, or deaths and identify remediation steps taken.	Deferred **Non Compliance**	The Commonwealth established a reporting and investigative process. The Office of Human Rights investigation reports do not include adequate information. The Office of Licensing Services' enforcement actions, beyond corrective action plans, are not adequately utilized.

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V.C.4	The Commonwealth shall offer guidance and training to providers on proactively identifying and addressing risks of harm, conducting root cause analysis, and developing and monitoring corrective actions.	Deferred **Non Compliance**	The Commonwealth has developed, but has not yet offered, the required trainings to providers.
V.C.5	The Commonwealth shall conduct monthly mortality reviews for unexplained or unexpected deaths reported through its incident reporting system.	Deferred **Non Compliance**	A Mortality Review Committee completed mortality reviews of unexpected and unexplained deaths reported through its incident reporting system. Limited reporting requirements and information flow undermine the ability of the Commonwealth to identify trends and to determine corrective actions to reduce mortality rates.
V.C.6	If the Training Center, CSBs, or other community provider fails to report harms and implement corrective actions, the Commonwealth shall take appropriate action with the provider.	Deferred **Non Compliance**	The Office of Licensing Services is not able to take appropriate action because it cannot effectively utilize the mechanisms to sanction providers, beyond use of Corrective Action Plans and provisional status.
V.D.1	The Commonwealth's HCBS waivers shall operate in accordance with the Commonwealth's CMS-approved waiver quality improvement plan to ensure the needs of individuals enrolled in a waiver are met, that individuals have choice in all aspects of their selection of goals and supports, and that there are effective processes in place to monitor participant health and safety.	Deferred **Non Compliance**	The Commonwealth's choice protocol does not include a process for choice of CSB case managers, a core support service for individuals and Authorized Representatives.
V.D.2.a-d	The Commonwealth shall collect and analyze consistent, reliable data to improve the availability and accessibility of services for individuals in the target population and the quality of services offered to individuals receiving services under this Agreement.	Deferred **Non Compliance**	Regarding employment, case management, crisis services, investigations, and mortality reviews, data are not available, not reliably collected, not consistently provided, or do not represent an adequate sample.

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V.D.3.a-h	The Commonwealth shall begin collecting and analyzing reliable data about individuals receiving services under this Agreement selected from the following areas in State Fiscal Year 2012 and will ensure reliable data is collected and analyzed from each of these areas by June 30, 2014. Multiple types of sources (e.g., providers, case managers, licensing, risk management, Quality Service Reviews) can provide data in each area, though any individual type of source need not provide data in every area (as specified):	Deferred **Non Compliance**	The Commonwealth began collecting and analyzing information in Fiscal Year 2012. Data collection for some measures began as of June 30, 2014. Data collection for the other established measures has not begun. Case management and employment data are not complete or reliable.
V.D.4	The Commonwealth shall collect and analyze data from available sources, including the risk management system described in …(specified sections of the Agreement).	Deferred **Non Compliance**	The data collected cannot be effectively analyzed. The data are frequently incomplete or not reliable.
V.D.5	The Commonwealth shall implement Regional Quality Councils that shall be responsible for assessing relevant data, identifying trends, and recommending responsive actions in their respective Regions of the Commonwealth.	Deferred **Non Compliance**	Regional Quality Councils were implemented beginning in March 2013. Given reliability concerns and the limited data shared, RQCs are beginning to use data to identify service areas that need improvement.
V.D.5.a	The councils shall include individuals experienced in data analysis, residential and other providers, CSBs, individuals receiving services, and families, and may include other relevant stakeholders.	Deferred **Non Compliance**	Three of the five Regional Quality Councils include all the required members. Two (40.0%) of the five do not include individuals receiving services.
V.D.5.b	Each council shall meet on a quarterly basis to share regional data, trends, and monitoring efforts and plan and recommend regional quality improvement initiatives. The work of the Regional Quality Councils shall be directed by a DBHDS quality improvement committee.	Deferred **Non Compliance**	The RQCs met during the past two quarters and are directed by a DBHDS Quality Improvement Committee. Only limited data have been shared and limited analysis conducted. See comment re: V.D.5.
V.D.6	At least annually, the Commonwealth shall report publically, through new or existing mechanisms, on the availability … and quality of supports and services in the community and gaps in services, and shall make recommendations for improvement.	Deferred **Non Compliance**	The DBHDS has not annually reported publically as required. The Commonwealth produces reports with some of this information. It plans to produce one report in Fiscal Year 2015.

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V.E.1	The Commonwealth shall require all providers (including Training Centers, CSBs, and other community providers) to develop and implement a quality improvement ("QI") program including root cause analysis, that is sufficient to identify and address significant issues.	Deferred **Non Compliance**	The Commonwealth is in the beginning stages of developing and implementing communication to convey to providers their QI responsibilities and to share data with the Commonwealth.
V.E.2	Within 12 months of the effective date of this Agreement, the Commonwealth shall develop measures that CSBs and other community providers are required to report to DBHDS on a regular basis, either through their risk management/critical incident reporting requirements or through their QI program.	Deferred **Non Compliance**	Same as V.E.1 immediately above
V.E.3	The Commonwealth shall use Quality Service Reviews and other mechanisms to assess the adequacy of providers' quality improvement strategies and shall provide technical assistance and other oversight to providers whose quality improvement strategies the Commonwealth determines to be inadequate.	Deferred **Non Compliance**	Since the Reviewer's last report to the Court, the Commonwealth evaluated and modified its implementation plan to comply with the Agreement's requirements. Compliant QSRs have not yet occurred.
V.F.1	For individuals receiving case management services pursuant to this Agreement, the individual's case manager shall meet with the individual face-to-face on a regular basis and shall conduct regular visits to the individual's residence, as dictated by the individual's needs.	Compliance **Compliance**	Of the individuals studied during the past year 55 (100%) were receiving case management services.

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V.F.2	At these face-to-face meetings, the case manager shall: observe the individual and the individual's environment to assess for previously unidentified risks, injuries, needs, or other changes in status; assess the status of previously identified risks, injuries, needs, or other change in status; assess whether the individual's support plan is being implemented appropriately and remains appropriate for the individual; and ascertain whether supports and services are being implemented consistent with the individual's strengths and preferences and in the most integrated setting appropriate to the individual's needs. If any of these observations or assessments identifies an unidentified or inadequately addressed risk, injury, need, or change in status; a deficiency in the individual's support plan or its implementation; or a discrepancy between the implementation of supports and services and the individual's strengths and preferences, then the case manager shall report and document the issue, convene the individual's service planning team to address it, and documents its resolution.	Non Compliance **Non Compliance**	Of individuals studied during the prior two periods: 12 (64%) of 18 individuals did not have an individual support plan modified as necessary. During the fourth review period 8 (100%) individuals with maladaptive behaviors with significant negative consequences did not have needed behavioral support services. DBHDS plans to implement changes in the ISP, case management review and training of case management supervisors during the next review period.
V.F.3.a-f	Within 12 months of the effective date of this Agreement, the individual's case manager shall meet with the individual face-to-face at least every 30 days, and at least one such visit every two months must be in the individual's place of residence, for any individuals (who meet specific criteria).	Compliance **Compliance**	Of individuals studied during the prior two periods: 47 (100%) of the individuals who met the eligibility criteria for enhanced case management were receiving the required monthly face-to-face meetings.
V.F.4	Within 12 months from the effective date of this Agreement, the Commonwealth shall establish a mechanism to collect reliable data from the case managers on the number, type, and frequency of case manager contacts with the individual.	Compliance **Non Compliance**	The Commonwealth's mechanism collects and aggregates this information. The data collected from CSBs, however, are not reliable.
V.F.5	Within 24 months from the date of this Agreement, key indicators from the case manager's face-to-face visits with the individual, and the case manager's observation and assessments, shall be reported to the Commonwealth for its review and assessment of data. Reported key indicators shall capture information regarding both positive and negative outcomes for both health and safety and	Deferred **Non Compliance**	The key indicators do not address specific elements of the case manager's face-to-face visit observation and assessments. For example, there are no plans to address the halo effect of case managers skewing reports to the positive.

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	community integration and will be selected from the relevant domains listed in V.D.3.		
V.F.6	The Commonwealth shall develop a statewide core competency-based training curriculum for case managers within 12 months of the effective date of this Agreement. This training shall be built on the principles of self-determination and person-centeredness.	Compliance **Compliance**	The Commonwealth developed the curriculum with training modules that include the principles of self-determination.
V.G.1	The Commonwealth shall conduct regular, unannounced licensing inspections of community providers serving individuals receiving services under this Agreement.	Compliance **Compliance**	DBHDS unannounced licensing inspections occur regularly.
V.G.2.a-f	Within 12 months of the effective date of this Agreement, the Commonwealth shall have and implement a process to conduct more frequent licensure inspections of community providers serving individuals ...	Compliance **Compliance**	DBHDS established and implemented a licensing inspection process with more frequent inspections.
V.G.3	Within 12 months of the effective date of this Agreement, the Commonwealth shall ensure that the licensure process assesses the adequacy of the individualized supports and services provided to persons receiving services under this Agreement in each of the domains listed in Section V.D.3 above and that these data and assessments are reported to DBHDS.	Non Compliance **Non Compliance**	The DBHDS Licensing protocol does not align with the Agreement's requirements. Its review process is not adequate to ensure provision of reliable data.
V.H.1	The Commonwealth shall have a statewide core competency-based training curriculum for all staff who provide services under this Agreement. The training shall include person-centered practices, community integration and self –determination awareness, and required elements of service training.	Deferred **Non Compliance**	The Commonwealth is offering trainings in person-centered practices, community integration and self –determination awareness. A core curriculum and the needed competencies in the required elements of service training have not been implemented, nor has the method for determining competency.
V.H.2	The Commonwealth shall ensure that the statewide training program includes adequate coaching and supervision of staff trainees. Coaches and supervisors must have demonstrated competency in providing the service they are coaching and supervising.	Deferred **Non Compliance**	Same as V.E.1 immediately Above.

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V.I.1.a-b	The Commonwealth shall use Quality Service Reviews ("QSRs") to evaluate the quality of services at an individual, provider, and system-wide level and the extent to which services are provided in the most integrated setting appropriate to individuals' needs and choice.	Deferred **Non Compliance**	The Commonwealth did not implement QSRs during the review period. A detailed work plan was submitted in March 2014 and is being implemented. It is finalizing a contract with an independent organization to conduct QSRs.
V.I.2	QSRs shall evaluate whether individuals' needs are being identified and met through person-centered planning and thinking (including building on individuals' strengths, preferences, and goals), whether services are being provided in the most integrated setting appropriate to the individuals' needs and consistent with their informed choice, and whether individuals are having opportunities for integration in all aspects of their lives (e.g., living arrangements, work and other day activities, access to community services and activities, and opportunities for relationships with non-paid individuals).	Deferred **Non Compliance**	QSRs were not implemented during the review period. The framework of the revised QSR plan appears to include elements that are required. The Commonwealth is negotiating the final contract with a Vendor to assist in the development of, and to perform QSRs. The revised QSR process will be reviewed after implementation.
V.I.3	The Commonwealth shall ensure those conducting QSRs are adequately trained and a reasonable sample of look-behind QSRs are completed to validate the reliability of the QSR process.	Deferred **Non Compliance**	Same as V.I.2.immediately above.
V.I.	The Commonwealth shall conduct QSRs annually of a statistically significant sample of individuals receiving services under this Agreement.	Deferred **Non Compliance**	Same as V.I.2. above. The draft contract includes determining a statistically significant sample.
VI	**Independent Reviewer**		
VI.D.	Upon receipt of notification, the Commonwealth shall immediately report to the Independent Reviewer the death or serious injury resulting in ongoing medical care of any former resident of a Training Center. The Independent Reviewer shall forthwith review any such death or injury and report his findings to the Court in a special report, to be filed under seal with the Parties … shared with Intervenor's counsel.	Compliance **Compliance**	The DHBDS promptly reports to the Independent Reviewer all deaths and serious injuries, upon receipt of notification. This period, the Reviewer, in collaboration with a nurse and an independent consultant, reviewed and submitted nine reports to the Court with copies provided to the Parties.

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IX	**Implementation of the Agreement**		
IX.C.	The Commonwealth shall maintain sufficient records to document that the requirements of this Agreement are being properly implemented …	Non Compliance **Non Compliance**	Sufficient records that are aligned with the requirements of the Settlement Agreement were not maintained to document compliance. Examples include records regarding crisis services, supported employment, licensing or case management. Inadequate reporting and poor data entry by CSBs contributes to the Commonwealth's records not being sufficient.

Notes:
1. The independent Reviewer does not monitor services provided in the Training Centers. During this review period the following provisions related to internal operations of Training Centers were not monitored: III.C.9, IV.B.1, IV.B.2, IV.B.8, IV.B.12, IV.B.13, IV.D.2.b.c.d.e.f.and IV.D.3.a-c.

DISCUSSION OF COMPLIANCE FINDINGS

A. Methodology:

The Independent Reviewer monitored the Commonwealth's compliance with the requirements of the Agreement as follows: 1) the Commonwealth provided data and documentation; 2) progress was discussed in Parties' meetings and work sessions with the Independent Reviewer's consultants; 3) discussions were held with providers and community stakeholders; 4) prioritized provisions were examined and evaluated; and 5) site visits were made to community residential and day programs.

During this fifth review period, the following areas were prioritized for review/evaluation and eight independent consultants, including three clinical consultants, again were retained to complete follow-up studies of:

- Services for individuals who recently transitioned from Training Centers to community placements;
- Integrated Day Activities and Supported Employment;
- Crisis Services;
- Licensing, Case Management, and Investigations;
- Housing/Community Living Options; and
- Quality and Risk Management.

For the fifth time, an Individual Review process and monitoring questionnaire was utilized to evaluate the status of services for a sample of individuals. Utilizing the same questions over several review periods permits the analysis of trends as the Commonwealth builds its community-based service system. During this most recent review period, twenty-eight individuals were randomly selected from forty-five individuals who transitioned from a Training Center to a community setting between January and mid-May 2014. Two-person teams reviewed the services for each individual. One member of each team was a Registered Nurse with extensive experience serving individuals with ID/DD. Each review included studying records related to discharge, service planning and case management; visiting and observing the individuals (usually in their homes); and interviewing service providers.

In each of the five reports completed by the Independent Reviewer's consultants, the status of the Commonwealth's compliance with the requirements of the Agreement is reviewed. The methodology for these reports included studying the status of planning, program development, and program performance through on-site visits and the comprehensive review of related data and documents, progress reports, work group minutes, and announcements. Interviews were conducted with selected Commonwealth officials, staff at the state and local levels, workgroup members, providers, families of individuals served, and other stakeholders.

Recommendations from these reports/reviews are included at the end of this Report and in each of the documents included in the Appendices.

Finally, as required, this Report was submitted, in draft form, to the Parties for review and comment prior to submission to the Court.

B. Compliance Findings

1. Providing Waivers

A core set of provisions in the Settlement Agreement relate to the obligations to increase the number of individuals with ID/DD with access to, and funding for, an array of services in community settings. Each waiver slot allows one selected individual to receive such services. The Independent Reviewer reported previously that, through Fiscal Year 2014, the Commonwealth had created more waiver slots than the minimum required by the Agreement. For Fiscal Year 2015, the Commonwealth created the minimum required number of slots when considering Section III.C.1.d of the Agreement, which allows "for a particular Fiscal Year, the number of slots created above the requirement shall be counted towards the slots required to be created in the subsequent Fiscal Year." Therefore, the Commonwealth is in Compliance with III.C.1.a.

As detailed in the Summary of Compliance table (page 4), the Commonwealth has approved funds for these waivers during a challenging economic period. These waiver slots have been provided to prevent the institutionalization of individuals with intellectual and developmental disabilities, usually with urgent needs, who had been on waiting lists for services. Waiver slots also have been provided to enable members of the target population, children with ID/DD who reside in nursing homes and individuals who reside in Training Centers, to transition to community-based services and supports.

As previously reported, the Commonwealth developed a well-organized discharge planning and transition process for the individuals residing in the Training Centers. Through a multi-step transition process, and with the participation of the individuals and the guardian/Authorized Representatives, a transition plan and an individual plan of support (ISP) are developed for each individual. This planning and transition process has enabled 375 individuals to move from Training Centers to community-based residential and day settings between October 1, 2011, and October 6, 2014.

For the children in the target population who reside in nursing homes and the largest Intermediate Care Facilities, the planned process to facilitate their transition to community homes has not been completed. Children continue to be admitted to, and discharged from, these facilities. The Commonwealth's previous action plans have not increased the number of children who have transitioned. The Commonwealth has hired new staff and a new analysis has been undertaken. The Commonwealth initiated the development of a new plan based in part on the extensive feedback from stakeholders to its earlier draft plans. The Commonwealth expects to complete the plan soon. The Commonwealth, therefore, is not in compliance with the requirements of III.C.b. and c.

As noted earlier, the Commonwealth has provided more than 1535 new waiver slots for individuals, who have been on waiting lists, to gain access to a menu of needed community services. Based on a review of a sample of these individuals' services, an important common theme has been the improved quality of life experienced by both the individuals and their families. However, these same reviews confirmed that some needed services are not available, especially for individuals with complex medical and behavioral needs. In addition, while the Commonwealth created these slots and more individuals were served, the number of individuals with ID/DD on its waitlists increased by a thousand to more than 7500 children and adults.

The Commonwealth has taken steps to improve the capacity of community programs to support individuals with complex needs. Approved Bridge Funds were used to assist forty-two former

Training Center residents to be supported in community-based settings. Exceptional rates have been improved and are in the process of being implemented for residential providers who serve individuals with complex medical and/or behavioral needs. The Commonwealth used an RFP process to select providers to work directly with individuals who transitioned from the Southside Virginia Training Center and their families. The Commonwealth is also engaged in an extensive process to restructure its waiver structure and rates. The Commonwealth will recommend reforms to the Waiver with the goal of increasing and strengthening its services for people with complex needs.

2. Individual Reviews

By the first half of year three, the Agreement expected individuals with ID/DD to receive Home and Community Based services in the most integrated setting, consistent with their informed choice and needs. The Agreement anticipated these individuals receiving core services, including case management, integrated day opportunities, and referrals for rental and housing assistance.

The Independent Reviewer's current study focused on forty-five individuals who transitioned from Training Centers to community settings between January 6 and May 19, 2014. A randomly selected sample of twenty-eight of these individuals was selected. This sample provides a 90% confidence interval that findings from the sample can be generalized to the entire cohort. The sample included sixteen (57.1%) individuals who moved from the Southside Virginia Training Center and six (21.4%) who transitioned from the Northern Virginia Training Center. The remaining six individuals moved from the other three Training Centers operated by the Commonwealth.

Although there were individual exceptions, the study of services for individuals who transitioned from Training Centers to community settings found the following themes and examples of positive outcomes and areas of concern.

- **The individuals' new community homes were clean and well maintained** Homes were accessible based on the individuals' needs for environmental modifications. Needed adaptive equipment and supplies were available. The DBHDS Licensing Specialists had recently inspected all homes.

- **The individuals transitioned primarily to congregate settings of five or more individuals or to settings with residential programs clustered together.** Some congregate group homes had the appearance of a business, not a typical home. The Individuals who lived in these congregate facilities generally went into the community with their housemates as part of a group. They lacked community integration opportunities and did not have individual support plans with goals that promoted the development of skills to increase self-sufficiency.

- **The discharge planning and transition process was well organized.** The discharge planning process and the Post-Move Monitoring visits occurred as scheduled and appeared to meet DBHDS's expectations. These processes did not, however, ensure that the residential and day support providers for three individuals with complex needs were able to sustain their critical supports during the first months of service provision.

- **There were many positive healthcare outcomes for virtually all the individuals studied.** All individuals had a physical within a year and the Primary Care Physicians' recommendations were implemented within the prescribed time frames.

- **The health and behavioral support systems provided by some residential providers were not adequately designed and/or implemented sufficiently for some individuals with complex needs.** Reviews found individual examples of inadequate systems. These include the failure to review inconsistently reported body weight; the failure to confirm that medications matched the prescribing MD's and pharmacist's written orders; the failure to monitor body weight, positioning and suctioning as required; the failure to provide tardive dyskinesia screens and to obtain needed lithium levels. Additionally, some related record systems were confusing to staff.

The impressive placements improved the quality of these individuals' lives. Notable improvements included: 1) individuals with fewer and less intense episodes of behavioral outbursts and self-abuse; and 2) individuals who had bonded with their caregivers, settled into their new homes, and become engaged in their communities.

Of the twenty-eight individuals studied, two residential and one day placements were not successful. These involved three of the eight individuals (see IV.C.5) whose essential services were not in place before they moved. Within a few months, the service providers concluded for each of these three individuals, after dealing with critical incidents, that they could not meet their complex needs.

The Independent Reviewer has provided the Individual Review reports to the Commonwealth so that it will review the issues identified for each individual. The Independent Reviewer has asked the Commonwealth to share the reports with the individual's residential provider and Community Services Board and to provide updates, by March 30, 2015, on actions taken with regard to the issues identified.

The Independent Reviewer has organized findings from the study into separate tables with positive outcomes and areas of concern (Appendix A). The findings from the Individual Review study also are cited in the Independent Reviewer's comments in the Summary of Compliance.

3. Crisis services

Crisis services are an important building block in a community-based service system for individuals with ID/DD. With that understanding, the Parties settled that by June 30, 2012, a statewide crisis service system would be available for all Virginian's with an ID or DD diagnosis, a much larger group than the target population. As previously reported, DBHDS complied with many of the crisis services provisions for adults with ID/DD: trained mobile crisis teams and Community Services Board Emergency Services personnel, and crisis stabilization programs. It has not, however, complied with several requirements. For example, the Commonwealth did not provide the statewide crisis service system for children and adolescents, as required, by June 30, 2012. It is also the Independent Reviewer's opinion that the Commonwealth's current plans are not adequate to provide these services by the end of the next review period, nearly three years after they were required to be in place. Below are highlights of the Commonwealth's accomplishment as well as areas of concern. Compliance ratings are detailed in the Summary of Compliance (page 4). The independent consultant's fourth study of the Commonwealth's progress toward complying with the crisis services provisions is

included at Appendix B. This study began including quality measures of compliance. This aspect of the study led to a recommendation that the Commonwealth regularly gather input from its customers, the individuals and families who utilize crisis services. Understanding the perspective of the users of the Commonwealth's crisis services will provide important information about the ways the programs are and are not being successful and the about needed quality improvements. The Independent Reviewer's future studies of crisis services will increasingly focus on issues of quality and outcomes for individuals.

Crisis Services for Adults: Prior to this review period, DBHDS focused on developing crisis services for adults. These services are now called the regional REACH programs. During this review period, REACH crisis teams continued to serve more than 100 new adults with ID/DD per quarter and have served more than 1200 individuals. A total of 232 new adults were referred during the review period. Most service request referrals were from case managers for consultations and crisis planning. Both are strong indicators that referrals were not specific to an emergency and that the REACH program is taking hold with Community Services Boards and their case managers as part of a service system. DBHDS has drafted statewide standards for REACH programs. These standards do not align with the requirements of the Agreement. Standards are missing the training requirements for REACH staff, case managers, Community Services Board Emergency Services staff or law enforcement personnel. The Agreement's crisis services requirements are the same for children and adults. The Commonwealth has developed statewide standard expectations for its adult crisis services programs. It has not done so for the required children's programs. Again, during this review period, many of the responses to crisis calls did not occur within the required two hours. There were fewer late responses in recent months.

Crisis Stabilization for Adults: All regions operated crisis stabilization programs with six or fewer beds; and all, except Region IV's, are based in locations consistent with the terms of the Agreement. A qualitative review of a small sample of ten adults involved with crisis services found that REACH was regularly involved with the individuals, families and service providers. The REACH teams also maintained their involvement with individuals who were hospitalized and post-hospitalization. Records were not clear, however, concerning whether the interventions were formally reviewed to determine in a measurable way which interventions were successful. Such a review, including customer feedback, provides an important opportunity to proactively identify and address risks of harm, as well as to identify trends and possible quality improvements.

Crisis Services for Children and Adolescents: DBHDS published plans in the first quarter of 2014 to develop crisis services for children and adults with ID/DD. The DBHDS plans outlined key system elements that are necessary for effective services to be developed. It provided a foundation for development of these services by committing to the use of evidence-based models and practices and by setting expectations for availability, for a service continuum, and for systemic values. As a first step in the development of crisis services for children, available funding was distributed to regional REACH programs to increase coordination of existing services, to complete a gap analysis, and to purchase equipment, including technology for tele-psychiatry. DBHDS reported that two regions will begin to provide crisis services to children in October 2014: another plans to begin in January 2015.

Only three (60%) of the five Regions completed the gap analysis. All reported barriers to providing children and adolescents with ID/DD crisis services as the lack of: funding; crisis staff; mobile response; trained providers; trained law enforcement personnel; intensive case management and behavioral supports. Although three Regions completed gap analyses, an accurate projection of the

number of children and adolescents who need the required services has not been completed, nor has the cost or the revenue sources to fund the needed services been identified. DBHDS reports requesting an additional $4 million for crisis services, but cannot be specific about the amount that is needed or would be provided for crisis services for children and adolescents with ID/DD. The Commonwealth has developed statewide standard expectations for its adult crisis services. Such standards have not yet been developed for the children's crisis services system that it plans to develop. Nonetheless, statewide requirements are essential for compliance.

The Independent Reviewer determined that the Commonwealth is not in compliance with the provisions to provide crisis services for children as of June 30, 2012. It is also determined that the Commonwealth does not have an implementation plan or the designated resources for a statewide crisis services system for children and adolescents.

Reaching out to individuals with DD, not ID: The required statewide crisis service system is for any Virginian with an ID or DD diagnosis. The target population is a subset of this larger group, as it also requires an individual to be eligible for a Home and Community Based Services waiver. There are many people with DD with significant needs who do not meet the level of functioning criteria for Home and Community Based Services waiver eligibility. DBHDS and the Community Services Boards historically did not work systemically with individuals with DD, other than ID. The Commonwealth has not documented an effort to reach out to these individuals and their families to ensure their awareness of the availability of crisis services. It has been difficult to gather facts about the numbers of individuals with DD in Virginia who have been admitted to psychiatric hospitals or incarcerated in Virginia's jails. The lack of outreach to individuals with DD, other than ID, sustains the long-term lack of service system relationships between DBHDS and Community Services Boards with a significant segment of the population intended to utilize these services. The Commonwealth reports that a training focused on crisis services is planned for DD case managers for January 2015.

Unnecessary admissions to nursing, psychiatric and law enforcement institutions are the negative outcomes the Settlement Agreement was initiated to address. The overarching provision of the "Serving Individuals with Developmental Disabilities (DD)…" section of the Agreement is "To prevent the unnecessary institutionalization of individuals with ID/DD and to provide them opportunities to live in the most integrated settings appropriate to their needs consistent with their informed choice."

Individuals diagnosed with Autism Spectrum Disorders comprise a significant segment of the target population with DD, other than ID. A percentage of this group needs behavioral support to avoid injuring themselves or others and, in some cases, to avoid being institutionalized. Referrals to the Regional Support Teams have described individuals with ID/DD who have behaviors that involve threatening and causing property damage and physical harm are not uncommon among individuals with complex behavioral needs. The Individual and Behavioral Support Plans reviewed during Individual Review studies set goals and designed programs to reduce the intensity and frequency of these behaviors. The Individual Review studies and the reviews of Serious Injury Reports have found that when behavioral support services are not successful, or not provided, these individuals' behaviors have led to engagements with law enforcement personnel. In most instances reviewed, the law enforcement personnel involved diverted these cases to the agencies that are prepared to address their needs appropriately. Typically these agencies are those with which the individual is involved, a private service provider, the Community Services Boards, and DBHDS. In some instances, the behaviors associated with an individual's developmental disability are inappropriately treated as

crimes, or as symptoms of severe mental illness. In response to the Independent Reviewer's request, the Commonwealth has recently provided the names of eleven individuals with ID/DD who have been institutionalized in law enforcement facilities during the Agreement. Although the purpose of the Agreement is to prevent the unnecessary institutionalization of these individuals, the Commonwealth had little available information about the community services provided to these individuals or whether these services were appropriate to their needs. In the Independent Reviewer's experience, when individuals with DD and/or ID, are incarcerated they are harmed by negative outcomes and that these outcomes are avoidable when needed community-based services are provided. Individuals with DD, other than ID, have not historically been connected to either the DBHDS or Community Services Boards and the lack of outreach to them does not comply with the Commonwealth's responsibilities to provide crisis services and to prevent their unnecessary institutionalization.

Further evidence of a lack of provision of crisis services to individuals with DD, other than ID, is that during the first quarter of Fiscal Year 2015, only six (4%) of 139 individuals referred by all sources for crisis services had DD, other than ID, and only one (1.1%) of the eighty-nine referred by case managers for crisis services was an individual who had DD, other than ID. DBHDS and the regional REACH programs have not actively reached out to individuals with DD, other than ID, for adult crisis services. The lack of outreach to individuals with DD, other than ID, should not be repeated when crisis services for children and youth are developed. This group includes a well reported and growing percentage of individuals with Autism Spectrum Disorder diagnoses.

Lack of Sufficient Records to demonstrate compliance: For two provisions rated as compliant in the previous Report to the Court, DBHDS was not able to provide sufficient records to demonstrate continued compliance since June 30, 2014. Data were not provided for the second half of the review period for crisis services availability, crisis response, crisis intervention, or for crisis planning for adults

4. Integrated Day Activities and Supported Employment

The Independent Reviewer's consultant found that the Commonwealth provided extensive training related to Employment First. A draft training module for case managers was made more comprehensive, piloted, and is available on the DBHDS website. The Commonwealth reports that this training will be required of both ID and DD case managers. The Commonwealth gathered baseline annual data and reported it in three areas, but not in two: data regarding wage information and length of time employed. As previously reported, the Commonwealth has established meaningful targets to increase the number of individuals in Supported Employment and how many remain employed after twelve months. The data available about Supported Employment limit the Commonwealth's ability to achieve compliance. The Independent Reviewer has determined that the Commonwealth does, however, comply with the provision regarding the reporting of the number of individuals who are receiving Supported Employment. During the next review period, the Commonwealth must verify the numbers it reports. This should include all individuals in the target population who are working in Supported Employment, rather than receiving ancillary services before or after periods of integrated paid work. The Commonwealth has not made meaningful progress toward achieving these goals. The Commonwealth reports that its new data survey will gather the required information and will distinguish between actual employment and ancillary employment services.

To move substantively toward achieving compliance with the related provisions, the Commonwealth is undertaking a significant redesign of its Home and Community Based Services waivers for

integrated day opportunities, including Supported Employment. The restructuring includes new service definitions and new funding rates for services that, if approved by the General Assembly, the Commonwealth will implement in Fiscal Year 2016. The Commonwealth reports that the new waiver structure, definitions, and rates will set the direction and the financial incentives for future program approaches. Defining integrated day and residential options and providing financial incentives to develop these services, for example, is expected to change the direction of program development. The Commonwealth believes that restructuring its waivers is necessary to move toward compliance with its Agreement. Given the existing service definitions and financial incentives, the pace of achieving compliance is limited by the lack of capacity of service providers, the existing service models, and the physical and human resource infrastructure, the vast majority of which is oriented toward providing services in large congregate settings. The role of the case manager is also central to achieving compliance. Both the consultant's review and the Individual Review Study determined that case managers are not currently implementing the Agreement's requirement to develop and discuss Supported Employment services and goals annually and, if not pursued, to offer integrated day services. The Commonwealth's new training module on employment for case managers should help make progress toward compliance. Data about employment discussions and goals, which the Commonwealth's performance contract with CSBs required in July 2013, will begin to be collected in July 2015

In addition to providing Supported Employment services, the Agreement requires DBHDS to provide integrated day activities for members of the target population. Case managers very rarely offer individuals, who are not employed, other types of integrated day opportunities. The Commonwealth submitted a preliminary plan in March 2014, a year after it was due. The preliminary plan pushed the promise of providing such integrated day activities to two years away, at best. The Independent Reviewer recommends that the Commonwealth expedite its efforts and actions to offer integrated day activities to individuals in the target population and to report quarterly on the number of individuals who have been offered, and have subsequently received, integrated day activities that are not employment-related. Although the Commonwealth has made efforts and has engaged in important preliminary planning activities, seven months after the preliminary plan was submitted, the plan's completion is projected as December 2014. The Commonwealth has recently confirmed that the existing waiver can appropriately fund integrated day services for individuals who live in group homes. The Commonwealth is hopeful this approach will offer new integrated day opportunities for individuals for whom traditional congregate day support providers are not available.

5. Licensing and Case Management, and Investigations

The Independent Reviewer's consultant evaluated the Commonwealth's compliance with case management, investigations, and licensing provisions of the Agreement. For service providers and for individuals who meet specific criteria, these provisions require regular unannounced inspections of providers and more frequent face-to-face case management visits with individuals. The Commonwealth must establish mechanisms to monitor compliance with performance standards and a licensing process that assesses the adequacy of individual services in specified domains. That process must report data to DBHDS for review and assessments. A copy of the consultant's report is attached at Appendix E.

During the review period, the DBHDS licensing system was the primary compliance mechanism for Community Services Board case management performance under contracts with the Commonwealth. There are several compliance concerns regarding that mechanism. The Licensing

Specialists of the DBHDS Office of Licensing Services (OLS) use checklists to monitor whether case management performance complies with the Agreement and with DBHDS licensing standards. These checklists do not align with the specific case management requirements of the Agreement (i.e. regular face to face meetings with the individual being served, enhanced visit frequency, offering choice among providers, assembling professionals and non-professionals who provide supports, and identifying risks to the individual). This gap leaves assessment up to the discretion of each Licensing Specialist and, thereby, contributes to reliability problems in interpretation when assessments are viewed collectively. The Office of Licensing Services' Protocol sampling methodology has been modified and is more valid for providers serving 100 or fewer individuals. This is not an adequate sample, however, for Community Services Boards that serve large numbers of individuals. Finally, results of licensing reviews are not regularly compiled into a report on trends related to compliance patterns across the CSBs. New elements of the DBHDS quality management process are being implemented that may address these issues, but these results will need to be assessed.

The consultant again confirmed that the frequency and number of unannounced licensing inspections have significantly increased and remain in compliance with the Agreement. The protocols for these licensing inspections, however, like those related to case management performance, do not align the Supports and Services area of the regulations with the requirements of the Agreement. This gap leaves assessment up to the Licensing Specialists to interpret, which contributes to reliability problems. Service providers have expressed concerns about a lack of consistent and reliable interpretations of regulations. The DBHDS Licensing Stakeholder's work group was formed to address this issue. It has been working to clarify current regulations in order to address provider concerns and to potentially increase reliability among Licensing Specialists. Its recent work product (*Guidance for Selected Licensing Regulations*) appears to be a good first attempt to address this issue.

The DBHDS has implemented "Enhanced Case Management Operational Criteria " which appear to successfully operationalize the requirements for enhanced visits. The Individual Review studies during the past two report periods verified the required frequency of face-to-face visits by case managers.

The DBHDS has established a Choice Protocol that allows individuals and, if applicable, their Authorized Representatives, a choice of service providers for approved waiver services. The distribution of the Protocol, however, is optional and it does not address choosing or changing a case manager.

The Agreement requires DBHDS to establish key indicators for several of the required domains (i.e. Health & Well Being, Community Inclusion, Choice and Self-Determination, Living Arrangement Stability, and Day Activity Stability). The measures established, however, do not address specific elements of face-to-face visits, such as when to convene the team, how to evaluate significant implementation problems, and how to assess risk when there are changes in status. Of the ten most recently hired case managers, all had completed the DBHDS online training.

The Commonwealth has implemented a process to investigate alleged abuse, neglect, critical incidents and deaths and to identify remedial actions taken in response. A review of ten (10) Office of Human Rights (OHR) field investigation reports found that they do not present enough information (i.e. findings of critical facts) to justify ruling out abuse or neglect. A review of seventeen (17) incident investigations suggests that investigators are thorough. The Office of Licensing Services' enforcement actions, beyond corrective action plans, however, are not adequate. During

the past Fiscal Year, its citations for "failure to report" went to fifty ID provider agencies and eight Community Services Board (CSB) providers. Beyond corrective action plans, however, there have been no other enforcement actions taken on these citations. Resolutions to the lack of enhanced enforcement remedies have been proposed, but are awaiting approval. The superficiality of the Office of Human Rights investigation reports and the lack of enhanced sanctioning for ongoing substandard performance contribute to determinations of non-compliance. The Commonwealth acknowledges that it can improve use of the enforcement mechanisms that are available to it. It also recently directed that the narratives in investigation reports should include "sufficient information to support findings …and to detail corrective action plans taken by the provider".

6. Community Living Options

The Independent Reviewer's consultant completed a follow-up review of the Commonwealth's progress on its "Plan to Increase Independent Living Options." A year ago, the consultant reported "significant concerns about the Plan's actual capacity to develop community-based housing for the target population." The concerns were:

- the rental assistance pilot program offered only temporary housing assistance for individuals in need of long term supported housing;
- no other funded efforts dedicated to set-aside subsidies for members of the target population were available; and
- the ability of members of the target population to access units as they become available requires careful choreography between 1) the LITHC developers who were being incentivized to develop these units and 2) the providers of service to the target group.

During the past two review periods, only two individuals have received housing units as a direct result of the Plan's implementation. None (0.0%) of the twenty-eight individuals who moved out of Training Centers and were reviewed for this Report were offered rental assistance to live in one of the units being developed.

The Commonwealth has revised, and augmented its Housing Plan's goals, strategies and action items. The DBHDS has actively collaborated with public and private housing agencies in developing these modifications have increased the potential of establishing the development of housing for the target population:

- A 32-unit set-aside of Housing Choices Vouchers for the target population
- Requests to local Public Housing Authorities to provide set asides for the target group
- Ongoing Rental Assistance Budget Requests being submitted to the Governor
- "Tax Bonds Subsidization of Development Costs Decision Brief" to the Governor
- HUD 811 Application submission
- Incentives for LIHTC Developers to serve the target population

These housing initiatives primarily represent the "possible" development of housing units in two to three years. Two and a half years after Virginia completed its Housing plan, it is a reasonable expectation that implementation would have progressed from initial "aspiration activities" (i.e. "encouraging" PHA's, "applying" for Federal grants, and "submitting briefs.") to funded and operational processes producing housing units for the target population. The Commonwealth has reported that it will implement additional plans to increase access to independent living options

during the next review period. Because of the lack of meaningful progress for the target population in the implementation of its Housing Plan, the Independent Reviewer has determined that the Commonwealth was not in compliance with Section III.D.1.

7. Serious Injuries and Mortalities

A. Mortality Reviews
The Independent Reviewer previously reported that DBHDS had established the Mortality Review Committee (MRC) under the direction of its Medical Director and that the members of this Committee possess appropriate experience, knowledge and skills. The Mortality Review Committee operates in accord with the basic elements of a statewide mortality review process. The Morality Review Committee:

- screens deaths with standard information;
- reviews unexpected and unanticipated deaths;
- includes medical professionals as Committee members;
- reviews and uses mortality review information to address quality of care;
- aggregates data over time to identify trends; and
- takes statewide actions to address problems.

During the current review period, the Mortality Review Committee continued operations that were largely developed during 2013: ongoing data collection; monthly meetings to complete organized reviews of deaths; identification of trends, patterns and problems; and recommendation of actions to reduce mortality rates statewide. To date, these actions have included developing and issuing Safety Alerts and system Guidances related to risks identified in the mortality reviews. It has not been determined, however, whether these actions have had any impact. The Commonwealth plans for the mortality review process to continue to improve with more substantive findings and recommendations and with improved analysis of data.

The Mortality Review Committee continued to have difficulty in obtaining reliable and complete information. Therefore, the mortality reviews frequently are based on limited information that reduces the extent of the review. The Mortality Review Committee recognizes that it has limited access to information and records from hospitals, medical providers, nursing facilities, and private unlicensed homes and that its mortality data are not reliable or complete. One agency of the Commonwealth currently presents a barrier to the gathering of more complete and timely information. The Licensing Specialists who investigate deaths of individuals who reside in DBHDS licensed homes are not trained to consistently gather information for a comprehensive and reliable mortality review. It is a positive indication of a working quality system that the DBHDS Quality Improvement Committee also identified the problem of incomplete and unreliable data. DBHDS plans to add staff resources and to collaborate with another state agency to increase and improve data collection with access to records of individuals who die in hospitals.

During this review period, the DBHDS Mortality Review Committee completed its first Mortality Annual Report. The report did not identify to whom it was distributed. Its completion, which is not specifically required by the Agreement, indicates progress in the development of a Quality and Risk Management system. The Mortality Annual Report describes the purpose, structure, and operating protocols of the DBHDS mortality review process. It acknowledges that DBHDS has limited access to information from hospitals and medical providers. Frequently, it has limited information about the

events leading up to a death and the treatment provided to the individual. The Annual Report presented an analysis of mortality rates in community settings and at Training Centers. Given the underlying difficulties of establishing a well-defined cohort and gathering reliable and complete information, the accuracy of any determined ID/DD mortality rate would be statistically suspect. Still, it is important to begin. Publication of ID/DD mortality rates encourages careful scrutiny of definitions, data collection and rate calculation methodologies. As these are refined, so will be the rates calculated. Comparisons with other states, and between groups within the Commonwealth, also will become more helpful as the reliability of the data and the process used to gather it are verified. An analysis of the composition of the ages and risk factors of the groups, which are compared, will help the Commonwealth and stakeholders interpret the information.

In summary, it is concluded that the Mortality Review Committee and its process have been implemented in accord with the applicable requirements of the Agreement. However, the data currently utilized by the Mortality Review Committee are neither reliable nor complete. This is especially true for people living at home and for information from hospitals and medical practitioners. Without reliable and complete data, the Commonwealth cannot: effectively determine mortality rates, trends, and patterns and is less able to determine necessary remedial actions. The Commonwealth, therefore, is not able to implement quality improvement initiatives to reduce mortality rates to the fullest extent practicable. With improved data and understanding of the critical factors that can lead to avoidable injuries and deaths, the Mortality Review Committee will be able to fulfill the Commonwealth's responsibility to actively develop and implement measures to reduce risks and mortality rates within individual provider programs and within the statewide service system.

B. The Independent Reviewer reviews and reports to the Court regarding serious injuries and the deaths of former Training Center residents. The Commonwealth promptly forwards the reports of all deaths of all individuals with ID living in the community and the reports of serious injuries to individuals who moved from Training Centers. Between October 1, 2011 and October 6, 2014, DBHDS has reported the deaths of twenty individuals who moved from the Training Centers. Of these individuals, eighteen moved to community homes. Two individuals were transferred while in declining health to a skilled nursing facility, the Hiram Davis Medical Center, on the campus of the Southside Virginia Training Center. Both of these individuals died within seven weeks of their transfers. As previously reported, the Commonwealth has provided the Reviewer additional resources to keep pace with the reviews of serious injuries and deaths. The Independent Reviewer has utilized additional resources provided by the Commonwealth to engage an independent consultant to assist him. On September 9, 2014, the Independent Reviewer, his consultant and senior DBHDS Quality and Office of Licensing Services staff met in Richmond to better understand:

- their roles and observations;
- the correlation of incident reports with individuals seen through the Individual Review study; and
- the examination of cross-agency interactions in cases involving Adult Protection Services.

The Independent Reviewer's consultant also met with and interviewed Licensing Specialists. These actions were in preparation for additional reports that are underway.

The reports from the completed reviews have been submitted to the Court with copies provided to the Parties and shared with the Intervenor's counsel.

The Independent Reviewer found that in nine (100%) of nine cases reviewed that the Commonwealth's Licensing Specialists had been assigned and had initiated timely investigations of reported deaths and serous injuries. In eight (90.1%) of the nine reviews, the Licensing Specialist opened, initiated and completed the investigation within a reasonable period and did so consistent with the standards of the investigation process. That is, if regulatory violations were identified, then the responsible providers were notified and Corrective Action Plans were developed. In one (9.1%) of the nine reviews, the Independent Reviewer found that, although significant investigation of facts had occurred and corrective actions had been proposed, the investigation and Corrective Action Plan had not been completed, even after many months. The delay had not been addressed through supervision. Again, for the reviews of deaths that occurred this period, the findings and conclusions were consistent with those of the Mortality Review Committee and the Licensing Specialists' investigations. In one (9.1%) of the nine DBHDS investigations, the Independent Reviewer concluded that the corrective actions were not adequate to effectively address the problems identified.

The Independent Reviewer's reviews of serious injuries and deaths also found individual examples of staff members who were not adequately trained, or determined competent, in the service elements of the individual being supported. DBHDS investigations found that two residential providers' health monitoring systems were not adequately implemented. In the experience of the Independent Reviewer, when serious injuries or deaths occur that might have been avoided, root causes often include staff members who were not adequately trained and whose knowledge and competence were not determined for a specific health protocol and/or the provider's systems did not ensure that performance standards were consistently met. Individual examples were also found of commendable staff advocacy for an individual to receive needed health care after the hospital initially did not find the source of his discomfort. Based on the findings and conclusions from these reviews, the Independent Reviewer has recommended improvements.

8.Quality and Risk Management

The Independent Reviewer's consultant completed a follow-up review of the Commonwealth's progress on its Quality and Risk Management initiatives**.** A year ago, in her baseline study, the consultant reported that many Quality and Risk Management planning and implementation efforts were underway. At that time, the consultant identified changes in plans that were necessary if the Commonwealth were to move toward achieving compliance. For example, the consultant recommended that the Commonwealth identify and develop:

- triggers and thresholds that include all significant harms and the risks of harm;
- relevant sources and mechanisms to collect additional reliable data;
- improved training modules and expanded competency measures;
- standards for a "trained" investigator, for the investigation process, and for investigation reports; and
- improvements to the planned implementation of Quality Service Reviews.

During the past year, the Commonwealth has continued its planning and implementation efforts. It has addressed some of the suggestions made in previous reports filed by the Independent Reviewer and his consultant. Effective changes have been made to define terms, to improve the sensitivity of risk triggers, and to develop new and revised report formats. DBHDS reports ongoing work with CSBs to improve the reliability of health and safety, community integration, and case management data and to develop additional data sources and reports. The agency also reports that it will increase resources so that data are routinely compiled, analyzed, and monitored; and so that issues and trends

are communicated broadly. A detailed work plan was developed to create Quality Service Reviews that comply with the Agreement. The Commonwealth acknowledges inadequacies in its data collection. It reports recently completing recommendations for systems improvements and devoting increased resources to address data inadequacies and to improve management of data analysis and trending.

At this time, the Commonwealth has not reached the implementation stage of many of its initiatives and, therefore, has not achieved compliance with most of the Quality and Risk Management provisions of the Agreement. The Commonwealth has done extensive work and made substantial progress in some areas. These areas include the development and implementation of the Mortality Review Committee and mortality review process and the development and implementation of a detailed work plan for Quality Service Reviews. In other areas, the Commonwealth has not yet addressed issues that are critical to achieving compliance. The Agreement requires, for example, that triggers and thresholds be designed to enable the Commonwealth to adequately address both "harms and the risk of harm". The Commonwealth's draft Risk Management processes, however, continue with a narrow list that does not include many significant and frequently encountered harms and risks of harm. Specific examples of these potential risks are listed in the consultant's report in Appendix F. An inadequately defined list of triggers and thresholds will continue to expose individuals to potentially avoidable risks of harm and will not comply with the Agreement.

In summary, it is positive that the Commonwealth has made progress with regards to a number of the Agreement provisions for a Quality and Risk Management system. There continues to be support among the DBHDS leaders for developing a strong Quality Improvement system. However, many challenges lie ahead. Many of the initiatives remain only in the beginning stages of development. Progress has been slow. A sustained effort in both the development of the basis for reliable and valid data and in the implementation of staff training is critical to progress toward substantial compliance.

CONCLUSION

The Commonwealth of Virginia, through its Department of Behavioral Health and Developmental Services and sister agencies, achieved compliance with many of the provisions that are currently required. The Commonwealth's leaders are meeting regularly and collaborating to develop and implement plans to address the Agreement's requirements. Through the transition to a new administration, despite staff turnover of leaders in key positions, the Commonwealth has continued its implementation efforts. These efforts include a complex undertaking to restructure the Commonwealth's Home and Community Based Services waivers that fund community-based services for individuals with ID/DD.

As anticipated by the Agreement, and as detailed in this report, the Commonwealth has provided waiver slots, and access to funded community based services for more individuals, most of whom had urgent unmet needs. Individuals have transitioned from Virginia's Training Centers to community settings as planned. Crisis services programs have and are helping many adults with ID/DD be stabilized and remain living in community settings. A well-organized discharge planning and post-move monitoring process has been implemented, and increased oversight by case mangers and licensing staff is occurring, as required. The Commonwealth has also taken steps to increase community supports for individuals with complex needs, including Bridge funding and exceptional rates.

Despite these successes and its good faith efforts, the Commonwealth continues to lag significantly behind schedule. Repeated delays in the development of essential elements of a community-based service system have continued. During the coming review periods, the Commonwealth must demonstrate more substantial progress developing and improving programs and systems to comply with the provisions of its Agreement. The programs and systems that must be adequately funded and effectively implemented include a statewide crisis service systems for children; increased community living options and integrated day activities; and opportunities for children to transition from living in nursing facilities to integrated community settings with needed supports. Much progress depends on the effective restructure of the Commonwealth HCBS waiver and their service definitions and funding rates.

As these plans are finalized and implemented, the Commonwealth must maintain a sustained effort that includes developing the basis for gathering reliable and valid data and for implementation of staff training. Effective implementation of these provisions will ensure what is most important to the individuals served and their families: that services "… are of good quality, meet individuals' needs, and help individuals achieve positive outcomes, including avoidance of harms, stable community living, and increased integration, independence and self-determination in all life domains..."

The Commonwealth has transitioned to a new administration and a new leadership team to spearhead the implementation of the new services and the reforms in the Settlement Agreement. They express strong commitment to fully implement the provisions of then Agreement, the promises made to all the citizens of Virginia, especially those with intellectual and developmental disabilities and their families.

RECOMMENDATIONS

The Independent Reviewer recommends that the Commonwealth address the recommendations listed below. The Independent Reviewer requests a report of actions taken and results for each recommendation by March 30, 2015.

Crisis Services

1. The DBHDS should reach out to the individuals with DD, other than ID, to ensure that they are aware of REACH crisis services and to offer referrals for individuals who may benefit.

2. The DBHDS should identify each individual with ID/DD who has been admitted to a psychiatric or law enforcement facility since June 30, 2012. The DBHDS should determine 1) whether these individuals had been receiving the requisite crisis services and 2) how to provide the services they need in a community-based setting.

3. The DBHDS should undertake a needs assessment that allows it to project the number of children and adolescents in need of the crisis services described in the Agreement, to identify which services will be reimbursed through Medicaid, and request a budget that funds the remainder of the crisis services needed. As soon as possible, DBHDS should initiate the provision of crisis services and supports to address the needs of children and adolescents with ID/DD.

4. The DBHDS should ensure that its statewide crisis response program responds to each crisis call within two hours.

Services for individuals with complex medical and behavioral needs

5. The Commonwealth should adjust its program monitoring process. It should include the periodic (i.e. three, six, and nine months) review and verification that provider operating systems assure that competent staff consistently implement the service elements of each individual at risk due to their complex medical and behavioral needs. This monitoring process should include qualified healthcare professionals and opportunities to provide needed technical assistance to direct support staff and providers.

Integrated Day Opportunities and Supported Employment

6. The DBHDS should ensure information is provided to individuals and their Authorized Representatives (those whose lives will be most impacted) about implementation of the Employment First policy principle, that supported employment is the first and priority service option.

7. The DBHDS should report separately on the progress made in meetings its targets for individuals with ID and DD, not ID, who participate in Individual Supported Employment.

Case Management Monitoring

8. The DBHDS should create a mechanism to monitor compliance with case management requirements of the Agreement. The process should focus on outcomes and specifically include samples of regularized face to face meetings with the individual being served, enhanced visit

frequency, offering choice among providers, assembling professionals and non-professionals who provide supports, and identifying risks to the individual.

Community Living Options

9. The Commonwealth should revise its housing plan to include quantitative measures, including the projected number of individuals in the target population for each action item. Quarterly plan updates should list the actual number who moved into their own home or apartment with housing assistance related to each action item.

10. Once members of the target population begin moving into and living in their own housing, their feedback should be used to direct mid-course adjustment to the housing plan.

Quality and Risk Management

11. The DBHDS should ensure that it documents a statistically valid approach to determine:
- the statistically minimum sample to validate procedures for assessing data reliability and validity;
- the methodology to collect, and the sources of, reliable data;
- the statistical procedures to validate the findings of licensing and other reviews; and
- the formulas to calculate the quality indicator/measures and mortality rates.

12. The Commonwealth should develop and report a complete set of standards for what constitutes a "trained investigator," an "adequate investigation," and "investigation reports" for use by Licensing Specialists, Human Rights Officers, and community providers.

13. The Commonwealth should address the current risk to individuals served. Their service providers do not currently know whether direct support job applicants have been found to have previously perpetrated abuse, neglect, or exploitation of individuals with ID/DD.

Mortality Review:

14. To ensure the reliability and completeness of mortality data, the Commonwealth should ensure that its agencies share records with the DBHDS that are related to the deaths of individuals with ID/DD. These records are of the events leading up to an individuals' death and the treatment the individual received. DBHDS should provide Licensing Specialists guidance about how and what information to gather while completing investigations of deaths.

APPENDICES

A. INDIVIDUAL REVIEWS

B. CRISIS SERVICES REQUIREMENTS

C. INTEGRATED DAY ACTIVITIES AND SUPPORTED EMPLOYMENT

D. HOUSING PLAN/COMMUNITY LIVING OPTIONS

E. LICENSING, CASE MANAGEMENT, AND INVESTIGATIONS

F. QUALITY AND RISK MANAGEMENT

APPENDIX A

INDIVIDUAL REVIEWS
April 7, 2014 – October 6, 2014

Completed by:
Donald Fletcher, Independent Reviewer
Elizabeth Jones, Team Leader
Marisa Brown MSN
Barbara Pilarcik RN
Shirley Roth MSN

Demographic Information

Sex	n	%
Male	13	46.4%
Female	15	53.6%

Age ranges	n	%
Under 21	0	0.0%
21 to 30	0	0.0%
31 to 40	4	14.3%
41 to 50	2	7.1%
51 to 60	16	57.1%
61-70	4	14.3%
71-80	2	7.1%

Levels of Mobility	n	%
Ambulatory without support	11	39.3%
Ambulatory with support	6	21.4%
Uses wheelchair	11	39.3%
Total assistance	0	0.0%

Authorized Representative	n	%
Guardian	6	21.4%
Authorized Representative	22	78.6%

Type of Residence	n	%
Group home	20	71.4%
Family home	0	0.0%
Sponsored home	2	7.1%
Nursing home	1	3.6%
ICF-ID	5	17.9%

Highest Level of Communication	n	%
Spoken language, fully articulates without assistance	3	10.7%
Limited spoken language, needs some staff support	2	7.1%
Communication device	1	3.6%
Gestures	18	64.3%
Vocalizations	4	14.3%

Discharge Planning – positive outcomes				
Item	**n**	**Y**	**N**	**CND**
Did the individual and, if applicable, his/her Authorized Representative participate in discharge planning?	28	100.0%	0.0%	0.0%
Was the discharge plan updated within 30 days prior to the individual's transition?	28	92.9%	7.1%	0.0%
Was it documented that the individual, and, if applicable, his/her Authorized Representative, were provided with information regarding community options?	28	100.0%	0.0%	0.0%
Did person-centered planning occur?	28	100.0%	0.0%	0.0%
Were essential supports described in the discharge plan?	28	100.0%	0.0%	0.0%
Did the discharge plan include an assessment of the supports and services needed to live in most integrated settings, regardless of whether such services were currently available?	27	96.4%	3.6%	0.0%
Was provider staff trained in the individual support plan protocols that were transferred to the community?	28	96.4%	3.6%	0.0%
Does the discharge plan (including the Discharge Plan Memo) list the key contacts in the community, including the licensing specialist, Human Rights Officer, Community Resource Consultant and CSB supports coordinator?	28	96.4%	3.6%	0.0%
Did the Post-Move Monitor, Licensing Specialist, and Human Rights Officer conduct post-move monitoring visits as required?	28	100.0%	0.0%	0.0%
Were all medical practitioners identified before the individual moved, including primary care physician, dentist and, as needed, psychiatrist, neurologist and other specialists?	28	96.4%	3.6%	0.0%

Discharge Planning Items – areas of concern				
Item	**n**	**Y**	**N**	**CND**
Was it documented that the individual and, as applicable, his/her Authorized Representative, were provided with opportunities to speak with individuals currently living in the community and their families?	28	64.3%	35.7%	0.0%
If a move to a residence serving five or more individuals was recommended, did the Personal Support Team (PST) and, when necessary, the Regional Support Team (RST) identify barriers to placement in a more integrated setting?	15	26.7%	73.3%	0.0%
If barriers to move to a more integrated setting were identified above, were steps undertaken to resolve such barriers?	4	25.0%	75.0%	0.0%
Was placement, with supports, in affordable housing, including rental or housing assistance, offered?	28	0.0%	100.0%	0.0%

Discharge Planning Items – areas of concern				
Item	**n**	**Y**	**N**	**CND**
Were all essential supports in place before the individual moved?	28	78.6%	21.4%	0.0%

Discharge Planning Items - COMPARISONS – 2013 to 2014		
3rd review period 2013	**5th review period 2014**	**% change +, (-)**
Was it documented that the individual and, as applicable, his/her Authorized Representative, were provided with opportunities to speak with individuals currently living in the community and their families?		
14.3% (4 of 28)	64.3% (17 of 28)	+50.0%
Was placement, with supports, in affordable housing, including rental or housing assistance, offered?		
0% (0 of 28)	0% (0 of 28)	0%
Were all essential supports in place before the individual moved?		
78.6%% (22 of 28)	71.4%% (20 of 28)	- 7.2%

Below are the positive outcomes and areas of concern related the individuals' healthcare.

Healthcare Items - positive outcomes				
Item	**n**	**Y**	**N**	**CND**
Did the individual have a physical examination within the last 12 months or is there a variance approved by the physician?	28	100.0%	0.0%	0.0%
Were the Primary Care Physician's (PCP's) recommendations addressed/implemented within the time frame recommended by the PCP?	28	100.0%	0.0%	0.0%
Were the medical specialist's recommendations addressed/implemented within the time frame recommended by the medical specialist?	28	96.4%	3.6%	0.0%
Is lab work completed as ordered by the physician?	28	92.9%	0.0%	7.1%
If applicable per the physician's orders, Does the provider monitor fluid intake?	21	95.2%	4.8%	0.0%
Does the provider monitor food intake?	22	95.5%	4.5%	0.0%
Does the provider monitor bowel movements	28	96.4%	3.6%	0.0%
Does the provider monitor weight fluctuations?	28	92.9%	7.1%	0.0%
Does the provider monitor seizures?	14	100.0%	0.0%	0.0%
Does the provider monitor positioning protocols?	13	100.0%	0.0%	0.0%
Does the provider monitor bowel movements?	28	96.4%	3.6%	0.0%
If applicable, is the dining plan followed?	24	91.7%	8.3%	0.0%
If applicable, is the positioning plan followed?	12	100.0%	0.0%	0.0%
Were appointments with medical practitioners for essential supports scheduled for and, did they occur within 30 days of discharge?	28	96.4%	3.6%	0.0%
Did the individual have a dental examination within the last 12 months or is there a variance approved by the dentist?	28	96.4%	3.6%	0.0%

Were the dentist's recommendations implemented within the time frame recommended by the dentist?	28	85.7%	7.1%	7.1%
Is there any evidence of administering excessive or unnecessary medication(s) (including psychotropic medication?	28	3.6%	96.4%	0.0%

COMPARISON Healthcare – positive outcomes improvement – 2013 to 2014		
3rd review period 2013	**5th review period 2014**	**% change +, (-)**
Did the individual have a dental examination within the last 12 months or is there a variance approved by the dentist?		
74.1%% (20 of 27)	96.4%% (27 of 28)	+ 22.3%
Does the provider monitor weight fluctuations, if applicable per the physician's orders?		
83.3% (20 of 24)	92.9% (26 of 28)	+9.6%
If weight fluctuations occurred, were necessary changes made, as appropriate?		
77.8% (14 of 18)	88.0% (22 of 25)	+10.2%
Is there documentation of the intended effects and side effects of the medication?		
66.7% (8 of 12)	75.0-% (9 of 12)	

Healthcare Items – areas of concern				
Item	**n**	**Y**	**N**	**CND**
If ordered by a physician, was there a current psychological assessment?	13	84.6%	7.7%	7.7%
If ordered by a physician, was there a current speech and language assessment?	13	76.9%	23.1%	0.0%
Are there needed assessments that were not recommended?	28	25.0%	75.0%	0.0%
If applicable, is there documentation that caregivers/clinicians				
Did a review of bowel movements?	10	80.0%	10.0%	10.0%
Made necessary changes, as appropriate?	7	71.4%	28.6%	0.0%
After a review of fluid intake, necessary changes were made, as appropriate?				
	13	84.6%	15.4%	0.0%
After a review of tube feeding, necessary changes were made, as appropriate?	6	83.3%	16.7%	0.0%

Healthcare Items –Psychotropic Medications - areas of concern				
Item	**n**	**Y**	**N**	**CND**
If the individual receives psychotropic medication: is there documentation of the intended effects and side effects of the medication?	12	75.0%	25.0%	0.0%
is there documentation that the individual and/or a legal guardian have given informed consent for the use of psychotropic medication(s)?	13	69.2%	30.8%	0.0%
does the individual's nurse or psychiatrist conduct monitoring as indicated for the potential development of tardive dyskinesia, or other side	12	41.7%	41.7%	16.7%

effects of psychotropic medications, using a standardized tool (e.g. AIMS) at baseline and at least every 6 months thereafter)?				

Below are the positive outcomes and areas of concern related the individuals' support plans.
Note: All items in the listed "Individual Support Plan Items – positive outcomes" were also found to have positive outcomes in the Independent Reviewer's previous Report to the Court

Individual Support Plan Items – positive outcomes				
Item	**n**	**Y**	**N**	**CND**
Is the individual's support plan current?	28	96.4%	3.6%	0.0%
Is there evidence of person-centered (i.e. individualized) planning?	28	96.4%	3.6%	0.0%
Are essential supports listed?	28	96.4%	3.6%	0.0%
Is the individual receiving supports identified in his/her individual support plan?				
Residential	28	100.0%	0.0%	0.0%
Medical	28	100.0%	0.0%	0.0%
Recreation	28	85.7%	14.3%	0.0%
Mental Health	10	100.0%	0.0%	0.0%
Transportation	28	96.4%	3.6%	0.0%
Do the individual's desired outcomes relate to his/her talents, preferences and needs as identified in the assessments and his/her individual support plan?	28	96.4%	3.6%	0.0%
For individuals who require adaptive equipment, is staff knowledgeable and able to assist the individual to use the equipment?	24	100.0%	0.0%	0.0%

Individual Support Plan Items – areas of concern				
Item	**n**	**Y**	**N**	**CND**
Has the individual's support plan been modified as necessary in response to a major event for the person, if one has occurred?	7	28.6%	71.4%	0.0%
Do the individual's desired outcomes relate to his/her talents, preferences and needs as identified in the assessments and his/her individual support plan?	28	96.4%	3.6%	0.0%
Does the individual's support plan have specific outcomes and support activities that lead to skill development or other meaningful outcomes?	28	46.4%	53.6%	0.0%
Does the individual's support plan address barriers that may limit the achievement of the individual's desired outcomes?	**27**	**66.7%**	**33.3%**	**0.0%**
If applicable, were employment goals and supports developed and discussed?	**25**	**12.0%**	**88.0%**	**0.0%**
Is the individual receiving supports identified in his/her individual support plan?				
Day/Employment	**23**	**65.2%**	**34.8%**	**0.0%**
Communication/Assistive Technology	4	75.0%	25.0%	0.0%
	24	100.0%	0.0%	0.0%

Individual Support Plan Items – areas of concern				
Item	**n**	**Y**	**N**	**CND**
Is staff assisting the individual to use the equipment as prescribed?	24	91.7%	8.3%	0.0%
Is staff assisting the individual to use the equipment as prescribed?	24	91.7%	8.3%	0.0%

The 2012 to 2014 comparison indicates there has been significant progress with case managers review for individuals who qualify for monthly face-to-face visits.

COMPARISON – Case Management				
There is evidence of case management review, e.g. meeting with the individual face-to-face at least every 30 days, with at least one such visit every two months being in the individual's place of residence.				
1st review period 2012	**3rd review period 2013**	**4th review period 2014**	**5th review period 2014**	**% change +, (-)**
46.9% (15 of 32)	88.9% (24 of 27)	100% (19 of 19)	96.4% (27 of 28)	+49.5%

Below are areas of concern related to the development of the individual support plans and integration outcomes of individuals in their communities.

Integration items – areas of concern				
Item	n	Y	N	CND
Were employment goals and supports developed and discussed?	25	12.0%	88.0%	0.0%
If no, were integrated day opportunities offered?	26	3.8%	96.2%	0.0%
Does typical day include regular integrated activities?	27	3.7%	96.3%	0.0%
Have you met your neighbors?	27	46.4%	53.6%	0.0%
Do you belong to any community clubs or organizations?	28	3.6%	96.4%	0.0%
Do you participate in integrated community volunteer activities?	28	3.6%	96.4%	0.0%
Do you participate in integrated community recreational activities?	28	10.7%	89.3%	0.0%

COMPARISON – Most Integrated Setting			
The Commonwealth shall serve individuals in the target population in the most integrated setting consistent with their informed choice and needs.			
1st review period 2012	**3rd review period 2013**	**5th review period 2014**	**% change +, (-)**
46.9% (15 of 32)	53.6% (15 of 28)	57.1% (16 of 28)	- 10.2%

Below are positive outcomes and areas of concern in the residential programs where case managers monitor the implementation of support plans.

Residential Staff – positive outcomes Items				
Item	**n**	**Y**	**N**	**CND**
Is residential staff able to describe the individual's likes and dislikes?	28	100.0%	0.0%	0.0%
Is residential staff able to describe the individual's health related needs and their role in ensuring that the needs are met?	28	96.4%	3.6%	0.0%
Is there evidence the staff has been trained on the desired outcome and support activities of the individual's support plan?	28	92.9%	7.1%	0.0%

Residential Staff – areas of concern				
Item	**n**	**Y**	**N**	**CND**
Is residential staff able to describe the individual's talents/contributions and what's important to and important for the individual?	28	75.0%	25.0%	0.0%

Residential Environment Items – positive outcomes				
Item	**n**	**Y**	**N**	**CND**
Is the individual's residence clean?	16	93.8%	6.3%	0.0%
Are food and supplies adequate?	28	96.4%	3.6%	0.0%
Does the individual appear well kempt?	28	89.3%	7.1%	3.6%
Are services and supports available within a reasonable distance from your home?	28	96.4%	3.6%	0.0%
Do you have your own bedroom?	28	96.4%	3.6%	0.0%
Do you have privacy in your home if you want it?	28	92.9%	7.1%	0.0%

Residential Environment Items – areas of concern				
Item	**n**	**Y**	**N**	**CND**
Is there evidence of personal décor in the individual's room and other personal space?	28	67.9%	32.1%	0.0%

APPENDIX B

CRISIS SERVICES REQUIREMENTS

By: Kathryn du Pree MPS

CRISIS SERVICES REVIEW OF THE VIRGINIA REACH PROGRAM FOR THE INDEPENEDENT REVIEWER FOR THE COMMONWEALTH OF VIRGININA VS. THE US DOJ

PREPARED BY KATHRYN DU PREE, MPS
EXPERT REVIEWER
November 12, 2014

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SECTION 1: OVERVIEW OF REQUIREMENTS

Donald Fletcher, the Independent Reviewer has contracted with Kathryn du Pree as the Expert Reviewer to perform the review of the crisis services requirements of the Settlement Agreement for the time period 4/7/14-10/6/14. The review will determine the Commonwealth of Virginia's compliance with the following requirements:
The Commonwealth shall develop a statewide crisis system for individuals with ID and DD; provide timely and accessible supports to individuals who are experiencing a crisis; provide services focused on crisis prevention and proactive planning to avoid potential crises; and provide in-home and community-based crisis services that are directed at resolving crises and preventing the removal of the individual from his or her current setting whenever practicable. This will be the fourth review of crisis services and prevention and will focus on the recommendations made by the Independent Reviewer in his report of June 6, 2014.

SECTION 2: PURPOSE OF THE REVIEW

This review will build off the review completed last spring for the review period through 4/6/14 and the recommendations the Independent Reviewer made in his last Report as a result of the conclusions and findings of that review.

It will focus on those areas that were not in compliance and the Independent Reviewer's related recommendations. This focus will be on:

- The Commonwealth's ability to serve adults with developmental disabilities in terms of crisis prevention and intervention services ensuring this target population, including those on the waiting list, has case management services to facilitate full access to crisis services and stabilization programs, and access to community supports to prevent future crises
- The Commonwealth's ability to provide crisis prevention and intervention services to children with either intellectual or developmental disabilities. I reviewed the DBHDS plan and regional responses to analyze regional services and service gaps in April, 2014 and made several recommendations that DBHDS needed to identify the service needs in each region and address outreach, education of case managers, referral process, CSB involvement, community supports, a methodology to track the need for out-of -home placement, and placement outcomes for children who are placed out of home
- The DBHDS' actions to reach out to individuals with DD and their families and train all DD Case Managers to ensure families of individuals with DD are aware of and can access crisis services
- The status of training of CSB Emergency Services workers to be completed by 6/14
- The Commonwealth's plan to reach out to law enforcement and criminal justice personnel to link individuals with intellectual and developmental disabilities with crisis intervention services to prevent unnecessary arrests or incarceration

- The number of individuals who were removed from their homes to an out-of-home placement during a crisis, the duration of the placement and the number of individuals who were not able to return to their original home or residence
- The status of locating a permanent crisis therapeutic homes in Regions IV
- The quality of crisis services that individuals are receiving from the five regional REACH programs
- The satisfaction of the families who have utilized REACH services for a family member

SECTION 3: REVIEW PROCESS

The Expert Reviewer reviewed relevant documents and interviewed key administrative staff of DBHDS, REACH administrators and stakeholders to provide the data and information necessary to complete this review and determine compliance with the requirements of the Settlement Agreement.

Document Review: Documents reviewed included:

1. The REACH Program Standards
2. The regional Gap Analysis and Program Development Updates for children and adolescent crisis services
3. The National START Center Annual Report: 7/1/13 – 6/30/14
4. State and Regional Quarterly reports for 4/1/14-6/30/14 and Regional Quarterly Reports for 7/1/14-9/30/14

Interviews: I interviewed the Assistant Commissioner for Developmental Services, the Director of Community Services, the current and former Crisis Services State Coordinators, a REACH Coordinator, members of the Region IV REACH Advisory Council and the State Director of the *arc.* I also attended one statewide meeting of all of the REACH Coordinators, which included Regional Managers and regional staff developing crisis services for children and adolescents. I interviewed 4four of the ten families randomly selected who have used Crisis Services to determine their level of satisfaction and elicit any recommendations they have for improvement. I appreciate the time that everyone gave to contributing important information for this review.

Individual Reviews: I selected ten individuals randomly who use REACH services to determine the quality of the services provided. I reviewed their records and interviewed some of their families.

SECTION 4: A STATEWIDE CRISIS SYSTEM FOR INDIVIDUALS WITH ID and DD

The Commonwealth is expected to provide crisis prevention and intervention services to individuals with either intellectual or developmental disabilities as part of its obligation under Section 6.a. of the Settlement Agreement that states:

The Commonwealth shall develop a statewide crisis system for individuals with ID and DD. The crisis system shall:

i. Provide timely and accessible support to individuals who are experiencing crises, including crises due to behavioral or psychiatric issues, and to their families;
ii. Provide services focused on crisis prevention and proactive planning to avoid potential crises; and
iii. Provide in-home and community –based crisis services that are directed at resolving crises and preventing the removal of the individual from his or her current placement whenever practicable.

A. REVIEW OF THE CRISIS SERVICES PLAN TO SERVE CHILDREN AND ADOLECENTS

The Commonwealth focused on developing these services for adults to date and has not had them available for children and adolescents with ID/D in any coordinated and consistent fashion although there are various supports available in different parts of Virginia to response to children and adolescents in crisis that may include young people with ID/D.

The Independent Reviewer directed DBHDS to develop a plan for crisis services for children and adolescents with ID/D by March 31, 2014. I reviewed this plan during the last review cycle and the regions' gap analyses and plans. The DBHDS plans include: "My Life, My Community: A Road Map to Creating a Community Infrastructure "on January 6, 2014. This document included a section about Children's Crisis Supports. This plan outlined key components of a crisis response system for children based on the review of children's crisis programs across the country. It provided a foundation for development of these services and set various expectations for availability, a service continuum and systemic values. The plan defines the role of a Navigator that will be the lead person in each region to coordinate children's crisis services and will collaborate with an array of stakeholders to develop a regional crisis response system that coordinates existing resources and systems of care to ensure the effective use of existing resources and building upon them as service gaps are identified. Services are to include crisis resolution, comprehensive case management, assistance to families to navigate service systems, demonstrate and train family caregivers and service providers in effective crisis interventions, and observe and enhance these techniques as used by caregivers.

DBHDS anticipates the children's crisis response system being developed in four phases beginning with the department's notification of funding (3/14):
Phase I: 3 months from notification of funding (3/14)- Hire the Regional Program Developer/Navigator: 3 months
Phase II: 3-6 months- Hire or contract for the Child Coordinator and the Child Community Professional. Launch services in July 2014
Phase III: 6 months- possible program expansion based on the needs identified in the first six months of operation. A decision will be made about expansion and cross-training REACH clinical staff in providing or developing supports to enhance the comprehensive system.
Phase IV: 2-3 years- program expansions based on documented need for crisis services.

A more detailed planning document, "*Crisis Response System for Children with ID/D"* was issued by Connie Cochran, Assistant Commissioner, Division of Developmental Services, DBHDS, on February 4, 2014. It describes the purpose of a crisis response system for children, how DBHDS will establish children's crisis operations, and the expectations and timeline for regions submitting proposals to secure funding and departmental approval of individual regional initiatives.

Funding was provided to each region through FY15 with a base allocation of $225,000. DBHDS has requested $4 million in additional funding for crisis services for FY16. The department is still analyzing how much of it will be directed to crisis services for children and adolescents.

I met with the REACH Managers, Coordinators and staff engaged in conducting the analyses in each region on September 16, 2014. The following summaries are based on the discussion during the meeting and the written reports provided by Regions: I, III and V. Region I completed its gap analysis. The HPR I Child ID/DD/ASD Crisis Services Progress Report: 9-1-14 summarizes the gaps that demonstrate a significant lack of community-based crisis services throughout all aspects of the support children and adolescents in crisis will need. Region I has hired a consultant who completed the gap analysis, drafted the job description for the Regional Program Manager and hired the Regional Child Coordinator effective October 2014. They are working with a HPR I Child MH Grant to provide additional children's crisis workers in two of the eight CSBs. There will be three CSBs of the eight in Region I with a Child Mobile Crisis program. The Region will offer tele-psychiatry.

Region II was completing its gap analysis with assistance from George Mason University, and did not provide a written gap analysis report. It expects the results in December 2014. The Region did issue a Mental Health RFP that included I/DD children. Services started in June 2014. Lee Ann Trumball reported that the program has served some of these children but did not report actual numbers. Region II has not hired the Navigator. The Region plans to build on existing MH crisis services and the Regional REACH Coordinator will provide consultation. The region is using tele-psychiatry and is doing outreach. The Region plans to develop a resource database for families, service coordinators and providers. Currently children's crisis services are reported to be very fragmented.

Region III has completed its gap analysis and submitted a written summary. They used information from the ten CSBs in the Region, public health entities, schools and providers of children's crisis services. Region III hired a Navigator and has identified someone to be a Child Crisis Worker and will be hiring a second Child Crisis Worker. They have six or seven Qualified Mental Health Professionals (QMHP) on staff. They have submitted all information to be licensed and plan to start service delivery later this fall. The Region will use the Arizona program model (MUTT) as a model for mobile children and adolescent services.

Region IV is still in the needs assessment/gap analysis phase. They have met with stakeholders to design the assessment process. They conducted telephone interviews and focus groups with DD stakeholders, attended the state *arc* convention and met with local

arc groups to increase their staffs' understanding of this population. They are starting to survey CSBs, advocacy groups, families, law enforcement personnel, medical professionals and providers of crisis services. They anticipate completing the needs assessment in October 2014. They have been unable to hire a Navigator reporting the difficulty of finding someone whose expertise matches the licensing requirements. Staff will meet with HR staff to attempt to resolve this issue. The REACH program in Region IV is not licensed to serve children and adolescents. The Region plans to use REACH to connect children and adolescents and their families to existing resources. Region IV did not provide a written report on the status of its needs assessment.

Region V had a draft of its gap analysis and was starting its needs assessment using this information. Staff ordered the equipment to start offering tele-psychiatry, which they think will build capacity. Crisis services for children and adolescents are uneven across the CSBs in the Region.

In summary, only three Regions completed the gap analysis/needs assessment. All three regions report the following barriers: lack of funding; lack of crisis staff; lack of mobile response; lack of trained providers and trained law enforcement personnel; no community support once the child is stabilized; lack of intensive case management; lack of behavioral modification expertise; and poor discharge and transition planning from hospitals and residential treatment.

None of the Regions include an accurate projection of the number of children and adolescents who may need this service, and none indicate how this could be projected in the future for budgeting, planning and service development. The three Regions that reported took slightly different approaches in conducting the gap analysis. Although all three Regions reported a lack of resources, none of them project costs or include financial resources except to state that they will work with providers to increase billing to Medicaid or use grant funding.

Regions I and III both include a plan to focus on staff training, work with stakeholders to support the development of comprehensive services, develop a resource manual or brochure, provide technical assistance to CSBs to increase Medicaid billable services, use REACH staff to offer some crisis services to children and adolescents and use grant funding to develop community services. Region V did not submit a plan with the summary of its analysis.

Conclusion: The DBHDS does not have a requirement of the REACH Programs to meet standards of a statewide crisis service system for children and adolescents with ID/DD across the regions. The only funding released is the $225,000 available to each Region to conduct the gap analysis, to hire Navigators and Children Crisis Coordinators, and to purchase necessary equipment including that needed for tele-psychiatry. The funding available was not determined based on an analysis of the need and regional proposals indicate the lack of resources and the need for additional funding. None of the regions have met the timelines originally established for the phases of program implementation (see the Phases summary above).

DBHDS reports it has requested additional funding for FY16 but cannot be specific about the amount that will be allocated to support children and adolescents. There is no current methodology to indicate that it is sufficient, and funding provided will not be available for almost another year. In all likelihood it will not be enough to create the service capacity that children and adolescents will need. The original premise was that Regions could build upon existing services and make sure they were well coordinated. From the information the Regions provided there are insufficient services and supports to address this population. It is impossible to know what level of funding is adequate without a comprehensive assessment of need.

The Commonwealth is not in compliance with *Section III.C.6.a.i, ii, and iii* of the Settlement Agreement because crisis services are not systematically in place and available to children and adolescents.

Recommendations: The DBHDS has developed a road map to initiate the planning process for serving children and adolescents with I/DD who are in crisis. The elements it proposes are necessary for effective services to be developed. It needs to insure that all of the regions develop and implement a crisis services system for all individuals consistent with statewide standards, including children and adolescents, with a diagnosis of ID or DD. While regional differences exist in terms of the existing capacity and expertise to serve children and adolescents, it is important that the same expectations are set by DBHDS for each regional program and that the regions are monitored to insure consistent implementation.

I remain concerned about the access that children and adolescents with DD, not ID will have for crisis services. Region IV's efforts to reach out to DD stakeholders during its gap analysis is a very positive step and should serve as a model to the other Regions as an initial approach. CSBs are the point of contact for children with ID and children with DD who also have a mental health diagnosis. The Regional plans must also address children and adolescents with DD who may be prone to behavioral crisis, who may not have a psychiatric diagnosis, will access the system and be served.

Regions II, IV and V should develop implementation plans. The DBHDS should be directed by the Independent Reviewer to undertake a needs assessment that allows it to project the number of children and adolescents in need of crisis services, identify which services will be reimbursed through Medicaid, and request a budget that funds the remainder of the crisis services needed. Services and supports should be initiated as soon as possible. Regions I and III indicate the Children's Coordinators will be part of the REACH team. The DBHDS should report whether it will expand REACH services to address the needs of children and adolescents with ID and DD in all regions and if not how the proposal to use Navigators will ensure a comprehensive system that does not leave children and adolescents without effective crisis prevention, intervention, stabilization and systems coordination.

B. REACH SERVICES FOR ADULTS

Regions continue to serve over 100 individuals per quarter as of the 2nd quarter (Q2) for FY14. As of June 30,2014 the REACH Program has served 1120 individuals out of 1036 individuals who have been referred.

During the review period, a total of 232 new individuals were referred to REACH. During the FY15 Q1 the number was 139, which is higher than any of the three previous quarters. Region II did not report so this number is only a partial reporting of the total number of referrals. In this reporting period, Case Managers made 77% (73) of the referrals in FY14 and 72% (139) of the referrals in the third quarter. The majority of services requested during FY14 Q4 were for consultation (53%) and cross system crisis planning (23%). This is a strong indication of the system taking hold with the CSBs and the Case Managers becoming more aware of REACH services and working proactively with individuals with dual diagnoses and their families.

Six individuals who were referred in FY15 Q1 had DD, not ID, which is only 4% of the referrals. This data was not provided for FY14 Q4. It remains a concern that there is no plan for outreach to families of individuals with DD. The Independent Reviewer continues to ask the DBHDS to develop an outreach plan to the DD community.

The Independent Reviewer asked DBHDS to report on the outcomes for individuals who are hospitalized as a result of the crisis and what involvement START had with them prior to and post hospitalization. DBHDS is to report if these individuals eventually return home or if an alternative placement needs to be located for them. Six individuals in FY14 Q4 and forty-one individuals in FY15 Q1 required some type of psychiatric hospitalization. This may be appropriate for these individuals. Of the six reported in Q4, three returned to their residence, two moved to a new group home, and one was civilly committed. Thirty of the individuals who were hospitalized in FY15 Q1 returned to their residence, eight moved to a new group home and three were civilly committed. REACH teams maintain their involvement with these individuals while in the hospital and post-hospitalization unless requested by the individual or family not to do so.

DBHDS does not yet require ID or DD Case Managers to be trained in crisis prevention and intervention. REACH Program staff do train CSB Case Managers and there is a training module on the web that can be accessed by ID or DD Case Managers. During the reporting period the REACH programs report training 286 Case Managers. This is uneven across the Regions. Region IV reported that no Case Managers were trained; Regions I trained thirty, Regions II and V trained sixty to sixty-eight and Region III reports training 164, which is 64% of the total number that were trained. The reporting does not differentiate the number of ID and DD Case managers trained.

The Assistant Commissioner reported last spring that DBHDS would determine if it will require this training and may use a Train the Trainers model so that each CSB has the capacity to train new Case Managers. It has not been confirmed that this will be required training. I continue to highly recommend that the DBHDS require a standardized training module and make the training a requirement in the CSB Performance Contracts. DBHDS

now oversees the DD Waiver. REACH training should be provided to all DD Case Managers and should be required.

The REACH programs for individuals age 18 and older are being designed to maintain the requirements of the settlement agreement as Regions III, IV, and V transition from START to REACH. Regions I and II are maintaining the affiliation with the National Center for START Services. DBHDS worked with Linda Bimbo, Director of Disability Services at the University of New Hampshire who oversees the National Center for START Services and staff from the Virginia Commonwealth University to develop the standards for REACH.
I reviewed the REACH standards. The standards address the expectations of the Settlement Agreement. They are based on a mission statement that supports individuals to live an inclusive community life by providing them with needed crisis stabilization, intervention and prevention services. The standards maintain the expectations that the system will have trained staff that will respond twenty-four hours a day seven days a week. REACH employees are expected to respond within one hour in urban areas and two hours in rural areas. Immediate crisis intervention is expected. The goal is to maintain individuals in their homes. The standards include a continuum of crisis supports including out of home temporary placement in the Community Therapeutic Homes (CTH) as an option.
The standards include the development of an individualized trauma specific plan of care, the Crisis Prevention and Intervention Plan (CPIP). It is to be written within forty-five days of admission to REACH. There is no standard for a temporary or interim plan to be developed to guide families and teams during the first forty-five days after the initial referral. Individuals, their families, Case Managers, and providers are to participate in the planning process. REACH will train individuals, family members and providers in crisis prevention, intervention and stabilization techniques. Outcomes will be measured and the team is expected to modify strategies when existing interventions are not successful. The standards include discharge criteria that is reasonable and allows for individuals to re-initiate REACH support when needed. The standards include a role for the Advisory Councils that will operate at the regional level.

The standards do not include training requirements for training REACH staff, case managers, CSB ES staff or law enforcement personnel. The Settlement Agreement requires these groups receive this training.

The standards are in draft and address the majority of elements that comprise the program. The DBHDS does need to address the following areas more completely. T What data will be collected is critical and is not defined in the standards. The DBHDS Leadership reports the data reporting and tracking system is being developed since DBHDS will no longer use the SIRS database available through the National Center for START Services. SIRS provides robust data about the DOJ requirements and information about referral sources, types of services requested and services provided. REACH is unable to provide all of this data for the First Quarter of FY15. This poses a problem in providing an accurate picture of the status of REACH services. This level of data will still be available for Regions I and II through their affiliation with START.

Training is mentioned in various sections of the draft standards but the staff development section is not developed in this draft. The Assistant Commissioner reported that either

Regions III, IV and V would sub-contract with Regions I and II to receive START training or the DBHDS would offer something comparable. The National Center for START Services offers excellent training that promotes evidence-based best practices. The three REACH program sites should offer their staff the same caliber of training as a core component of the statewide crisis system.

The standards do not include any measures of consumer satisfaction in the section that describes program evaluation. Families and providers should be asked for their assessment of the value of the services and this information should be used for program improvement. The standards also include exclusion criteria. REACH does not serve individuals in the CTH who are currently using substances or require detoxification; who may pose a threat to the safety of other guests; who are homeless or do not have an identified placement; or who do not have a Case Manager. These may all be reasonable criteria for the CTH setting, but DBHDS has a responsibility to serve these individuals during a crisis and needs to articulate how the needs of these individuals are met if they cannot be stabilized in their own homes. The Independent Reviewer and I continue to be concerned about access to crisis prevention and intervention services for individuals with DD. This concern is borne out by the number of referrals to REACH. Four of the five regions reported this data for FY15 Q1. The total number of referrals was 139. Only six of the individuals who were referred have DD, which is only 4% of the referrals. The DBHDS does not have a plan for outreach to individuals with DD. This was a concern for the Advisory Council members I interviewed.

Recommendations: The DBHDS should move ahead with its plans to develop a statewide coordinated crisis response system for children and adolescents and standardize its expectations across the five regional programs. DBHDS should determine how many of adults with DD, not ID, are at risk of a crisis due to a dual diagnosis or who experience significant behavioral issues (one approach would be to complete a SIS for every individual who is on the DD Waiver, or if already available analyze the results). This information should be used to develop a targeted outreach program and to project future utilization of the crisis response system to enable a determination to be made of whether the REACH program is effectively responding to the needs of this group. Training should be required of all Case Managers.

C. Reviews of Individuals Using REACH

This review included reviewing the services ten randomly selected individuals received and interviewing their families. I used the START Stakeholder Perception Survey, which is used nationally by the Center for START Services.

I selected the individuals from all five regions to represent individuals who received consultation and crisis planning only, in-home support services, CTH services or a combination. Two individuals were reviewed from each Region. The purpose of the review was to determine:

- ✓ The response time to crisis referrals

  Finding: 100% of the team responses were in the required time
- ✓ Whether an assessment and an intervention plan was developed

  Finding: 100 % of the individuals had an assessment and an intervention plan
- ✓ Whether the plan was implemented

  Finding: 100% of the individuals had the plan implemented
- ✓ Whether in-home supports were provided

  Finding: 100% of the individuals who requested in-home supports received these supports
- ✓ The use of the CTH for both crisis stabilization and prevention

  Finding: 60% of the individuals in the sample used the CTH program. No one who requested it was denied it. An additional family was offered it, but has not used it yet.
- ✓ Whether families and providers were trained in behavioral interventions

  Finding: Only 50% of the families and providers were trained according to the available documentation
- ✓ The involvement of the CM and team for transition planning if an individual left his/her home

  Finding: six of the seven individuals (86%) who left home for crisis stabilization had their team involved in transition planning
- ✓ Whether the individual was hospitalized

  Finding: 50% of the individuals were hospitalized in a psychiatric facility. REACH staff followed them during the hospitalizations
- ✓ The involvement of the CM and team for transition planning if the person was hospitalized

  Finding: 100% of the individuals hospitalized had their team involved in transitioning planning
- ✓ Whether the individual was maintained at home

  Finding: 80% of the individuals were maintained in their home setting. One individual was appropriately placed in supported living after a hospitalization. A second person was appropriately placed in a community residence after a visit to the CTH

This review of a small sample found that REACH was very involved with the individuals referred for their services. Documentation shows regular involvement with individuals, families and service providers, if they are involved. REACH provided follow up after hospitalizations and was regularly available by phone to families in addition to making visits to the home. REACH referred individuals appropriately to needed community services including psychiatrists and neurologists. REACH followed its discharge policy and

arranged appropriate transitions. There was also evidence that individuals who had been discharged were quickly served again, if their situation became unstable. REACH was very engaged with the residential and day providers, including schools. REACH Coordinators generally engaged with Case Managers to coordinate crisis supports and to keep the CM informed of any changes. The records were not clear that the interventions were formally reviewed to determine in a measurable way which interventions were successful.
I do have a few concerns from my review of this sample of ten individuals. The Crisis Prevention and Intervention Plans (CPIP) seem lacking in recommendations for what the family or provider can do if efforts to verbally engage the individual or re-direct them doesn't work. In many of the plans the next step is to call REACH, ES Staff or the police. REACH does respond timely when called in these situations but families and particularly providers may be able to be trained to carry out more intensive interventions including appropriate physical management techniques to help stabilize the situation before calling ES staff or law enforcement. REACH staff are responsive but in some of the records it is difficult to ascertain what actual training was provided to give the caregiver more skills in interacting successfully with the individual during a crisis versus consultation. It is also troubling that a few of the individuals who received REACH services either did not have a day program or reported being bored with their day program activities. This is not a responsibility of REACH. However, the impact of a lack of meaningful day on individuals with behavioral and/or mental health needs should be analyzed and considered by DBHDS as the department prioritizes who receives waiver resources.

Three of the ten individuals had been involved with the police on more than one occasion. As stated above calling the police is often part of the CPIP. This makes it more imperative that law enforcement personnel are consistently trained.

I was only able to interview four of the ten families whose relative was part of the individual review. Two of the families reported high levels of satisfaction with the crisis services that were provided to their children and found the coordination of REACH services and service coordination effective. One family interviewed actually had two children who were referred to REACH although only the son used the CTH and participated in crisis planning. The daughter visited the CTH but did not feel comfortable using it as reported by her mother. The family has discontinued use of the REACH program because of dissatisfaction with the psychiatrist and because the son became continually upset about being asked if he wanted to leave his home permanently. The REACH program staff made a report to Social Services about their concerns with his home setting. Currently both children remain with their family.

The fourth family interviewed had significant concerns about the general services of the team and Service Coordinator, some of which indicated concerns about REACH, but to a lesser extent. The individual who used REACH communicates using ASL. The Service Coordinator cannot use ASL and for a long period did not arrange for an interpreter. The sister who I interviewed complained that the REACH CTH did not have anyone fluent in ASL for many of her sister's visits, which made it impossible for her to communicate. REACH found a Service Coordinator who was fluent in ASL, which improved the individual's experience. She has been moved to a new community residence with the recommendation and support of REACH due to abuse occurring in her previous residence.

Her sister believes the abuse continued for a long period unchecked because no one listened to her sister.

TABLE 1: REVIEWS OF INDIVIDUAL USING REACH SERVICES

	Responded In Required Time of 2 hrs.	Responses Included Assessment and Intervention for	R Staff Implemented Stabilization Plan	In-Home Supports Offered	Used Crisis TH for Both Emergency and Planned Crisis Support	R Staff Available for Up to 3 Days for Stabilization	Crisis Prevention Plan Developed & Included Prevention Strategies & Links with Community Resources	R Staff Trained Family Members and Providers on Prevention Plan	Were R Team & CM Engaged in Transition Planning if Individual Needed to Leave Home	Were R Team & CM Engaged in Transition Planning if Short Term Psychiatric	R Team Effectively Communication w/Service Providers, Individual & Family
1	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
2	YES	YES	YES	YES	NO	YES	YES	YES	N/A	N/A	YES
3	N/A	YES	YES	YES	YES	YES	YES PLAN NO LINKAGE	NO	YES	N/A	YES
4	N/A	YES	YES	N/A	YES	N/A	YES PLAN NO LINKAGE	NO	NO	N/A	NO
5	N/A	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES
6	N/A	YES	YES	YES	NO	YES	YES	YES	YES	YES	YES
7	N/A	YES	YES	YES	NO	YES	NO PLAN IN FILE	NO***	N/A	N/A	YES
8	YES	YES	YES	YES	YES	YES	YES	NO	YES	YES	YES
9	N/A	YES	YES	YES	NO BUT OFFERED	N/A	YES	YES	N/A	N/A	YES
10	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

NOTE: * INDICATES THE INDIVIDUALS COULD NOT RETURN HOME BUT WERE PLACED PERMANENTLY ELSEWHERE; ** INDIVIDUAL APPROPRIATELY REFERRED FOR A NEW RESIDENCE AFTER USING THE CTH;
*** PARENT COMPLAINED ABOUT THE LACK OF TRAINING

Recommendations: Input from families who use REACH services is important to determine compliance with the Settlement Agreement. It is valuable to have this perspective to determine if the REACH Regional Programs continue to provide the full range of crisis supports expected, and if the program is successfully assisting families during crises and

stabilizing individuals experiencing a crisis so they can stay in their home or return after short period of out-of-home crisis intervention. I recommend that future reviews include this satisfaction survey and that REACH programs use it with participants and share the results with their Advisory Councils, the Independent Reviewer, and the Expert Reviewer.

Conclusions: The DBHDS is not in compliance with *Section III.C.6.a.i, 6.a.ii, and 6.a.iii.* The program elements are in place for adults with ID and the REACH teams are meeting the expectations for serving this specific population. However, DBHDS does not have a statewide crisis system in place for children and adolescents who experience a crisis; nor can DBHDS assure that it is reaching all of the individuals with DD who need and may benefit from the crisis system.

SECTION 5: ELEMENTS OF THE CRISIS RESPONSE SYSTEM

6.b. The Crisis system shall include the following components:

i. Crisis Point of Entry

A. The Commonwealth shall utilize existing CSB Emergency Services, including existing CSB hotlines, for individuals to access information about and referrals to local resources. Such hotlines shall be operated 24 hours per day, 7 days per week and staffed with clinical professionals who are able to assess crises by phone and assist the caller in identifying and connecting with local services. Where necessary, the crisis hotline will dispatch at least one mobile crisis team member who is adequately trained to address the crisis.

In all Regions REACH continues to be available 24 hours each day to respond to crises. During the fourth quarter of FY14, eighty-four referrals occurred during business hours, seven during evening hours and two during weekend hours. The CSB ES Teams made five referrals, out of ninety-five reported. Case Managers made seventy-three and six were made by families.

Ninety-five referrals were made to START during FY14 Q4, which is very consistent with the ninety-six referrals made during the third quarter. DBHDS reported on all of the regions except Region II. There were 139 referrals in FY15 Q1. This represents an increase over the previous two quarters. The CSB ES Teams made seven of the referrals in two of the regions. Case Managers made eight-nine of the referrals, only one of which was from a DD Case Manager. Six referrals were made directly by families. It is expected that the majority of referrals will be made by Case Managers as they become more aware of the services available through REACH and have regular contact with the individuals on their caseloads. The DBHDS is unable to report the time of day referrals were made during FY15 Q1.

Conclusion: The Commonwealth is in compliance with *Section III.C.6.b.i.A.*The DBHDS needs to include information about the time of day and days of the week referrals are made to verify that the response is available and used evenings and weekends as well as typical business hours.

B. By June 30, 2012 the Commonwealth shall train CSB Emergency personnel in each Health Planning Region on the new crisis response system it is establishing, how to make referrals, and the resources that are available.

The Regions continue to train CSB ES staff and report on this quarterly. During this reporting period all Regions provided some training to CSB ES staff, but only Region III provided training in both quarters in the reporting period. The total ES staff trained during this reporting period was sixty-three. Region III trained twenty-three ES staff. The other Regions trained between six and fourteen ES staff.

The Independent Reviewer requested a plan from DBHDS by June 30, 2014 to specify that all CSB ES personnel will be trained using a standardized curriculum and this training will be tracked. The DBHDS did not submit this plan.
Conclusion: The Commonwealth remains in compliance *with Section III.C.6.b.i.B* because the REACH programs continue to train ES staff. However, the DBHDS cannot report that all ES staff are trained and did not comply with the Independent Reviewer's requirement to develop and submit a plan.

Recommendation: The Commonwealth should establish a statewide crisis system standard that all both CSB ES personnel and Case Managers are trained and that this information should be reported to DBHDS.

ii. Mobile Crisis Teams

A. Mobile crisis team members adequately trained to address the crisis shall respond to individuals at their homes and in other community settings and offer timely assessment, services support and treatment to de-escalate crises without removing individuals from their current placement whenever possible.

The National Center for START Services at UNH continued to provide training to all of the regional programs using evidenced based training through June 2014. Regions I and II are continuing their contracts with UNH and will continue to have staff trained by the national START trainers. The DBHDS has not been able to report on the plan to continue training for REACH staff in Regions III, IV and V. My concerns about this are addressed under the review of the REACH Draft Standards. All Regions have continued to access the autism training provided by Karen Wiegel, Ph.D. through the National Center for START Services. Several REACH staff have also attended trainings offered by the Virginia Autism Council learning strategies to support adolescents and adults with Autism Spectrum Disorders.

Conclusion: The Commonwealth is in compliance with *Section 6.b.ii.A.* I find they are in compliance because START training continued for half of this reporting period and staff that remain with the programs have been trained. The DBHDS must develop training requirements as part of the REACH Standards and provide the training to maintain compliance in the future.

B. Mobile crisis teams shall assist with crisis planning and identifying strategies for preventing future crises and may also provide enhanced short-term capacity within an individual's home or other community setting.

The teams continue to provide response, crisis intervention and crisis planning. During the fourth quarter ninety-five individuals were referred to REACH. These referrals included requests for the following community services: comprehensive evaluation, consultation, cross system crisis plan services were requested at the time of referral including consultation (50), comprehensive evaluation (4), cross system crisis planning (22), emergency response services (3), and in-home support (3). The other referrals were for emergency and planned respite. The REACH programs accepted ninety-three of the referrals. One person was not reported and the one person who was not accepted was referred for non-REACH services. The REACH teams responded appropriately. The DBHDS has not made the data available for the First Quarter of FY15.
Conclusion: The Commonwealth's compliance with *Section 6.b.ii.B* cannot be determined without the data for FY15 Q1. DBHDS cannot provide this data. This also places them out of compliance with Section IX.C.

C. Mobile crisis team members adequately trained to address the crisis shall work with law enforcement personnel to respond if an individual comes into contact with law enforcement

No referrals from law enforcement are reported in either of the quarters in the reporting period. Region II did not report this information in FY15 Q1.

Regions report on training to law enforcement personnel. A total of 266 law enforcement personnel were trained during the reporting period. Region V trained 140, which represents 52% of the officers trained. Region III trained 58 officers, which is 22% of the number trained. Region IV did not train any law enforcement personnel. This variation in the number of law enforcement officers trained across regions demonstrates that there is no consistent requirement by DBHDS to provide this training. Some of the individuals reviewed as part of the individual review had several interactions with police officers that were called by either a family member or provider. This appears to be a common practice in Virginia to help address the safety of individuals who experience a crisis and others with whom they interact. This makes it more critical that law enforcement officers are knowledgeable about REACH services and how to respond to individuals with ID/DD who are in crisis.

The DBHDS continues to not respond to the Independent Reviewer's request to develop a plan to insure that all law enforcement departments receive training in the REACH program. To date there has been no plan submitted that provides a schedule by when a module about REACH will be formally added to all CIT training or will be offered to all law enforcement departments through another method.

Conclusion: The Regions are making progress by providing training but I do not find the Commonwealth in compliance with *Section 6.ii. C* until there is an implementation and schedule to train all law enforcement departments that is completed in a reasonable time period.

D. Mobile crisis teams shall be available 24 hours, 7 days per week to respond on-site to crises.

As reported earlier in Section 4 the REACH Mobile crisis teams are available around the clock and respond at off hours as reported for FY14 Q4. During the FY14 Q4 reporting period the CSB ES teams referred six individuals to REACH, representing 8% of the referrals. During FY15 Q1 the CSB ES teams referred seven individuals representing 5% of the referrals.

During FY14 Q4 seventy-seven crisis assessments were conducted. Forty (52%) of the seventy-seven crisis assessments were conducted in the individual's home, an 11% increase over the previous reporting period. Another eight individuals were assessed through telephone consultation. Nineteen individuals had to leave their homes to be assessed at an emergency room or the START office, with the majority evaluated in the ER. In FY14 Q4 nine of individuals were recorded on the other or unreported category. This is 12% of the total and has been a consistent problem with previous reports. It will be helpful if future reports can provide an explanation of the "Other" category and if DBHDS follows up on those in the "Unreported" category for all areas of reporting.

DBHDS cannot report information about where crisis assessments were conducted for FY15 Q1. This needs to be a data element in the new reporting tool the DBHDS is designing.

Conclusion: Compliance with *Section III.C.6.b.ii.D* cannot be determined without the data for FY15 Q1.

E. Mobile crisis teams shall provide in-home crisis support for a period of up to three days, with the possibility of 3 additional days

DBHDS is now collecting and reporting data on the amount of time that is devoted to a particular individual. All regions provided individuals with more than three days on average of in-home support services with the exception of Region II in FY14 Quarter 4. Regions provided community based crisis services as follows:

Region I: twelve individuals for an average of seven days
Region II: seventeen individuals for an average of one day
Region III: twenty-five individuals for an average of thirteen days
Region IV: forty individuals for an average of four days
Region V: 121 individuals for an average of three days

During the FY15 Quarter1 the Regions provided community based crises services as follows:

Region I: provided data in percentages with no total number
Region II: nine individuals for an average of four days
Region III: eighteen individuals for an average of fourteen days
Region IV: thirty-two individuals for an average of four days
Region V: provided data in percentages with no total number

Region V served the most individuals using community based crisis services. Regions vary in the number of individuals served and the total number of days of community based crisis services. Region II served twenty-six individuals providing fifty-three days across both quarters, Region III served forty-three individuals providing 577 days across both quarters and Region IV served seventy-two individuals providing 288 days of community based crisis services. Region V served the most individuals and offered 363 days of services during just one quarter.
A similar pattern of disparity in the number of individual served and the number of days the community based crisis service was offered was evidence in the last report for the previous two quarters (10/13-12/13 and 1/14-3/14). This finding does not impact compliance but brings in to question workload of the REACH staff and whether outreach and knowledge about the program varies across the Regions.

Conclusion: The Commonwealth is in compliance with the requirement of *Section III.6.C.b.ii.E.*

G. By June 30, 2013 the Commonwealth shall have at least two mobile crisis teams in each region to response to on-site crises within two hours
H. By June 30, 2014 the Commonwealth shall have a sufficient number of mobile crisis teams in each Region to respond on site to crises as follows: in urban areas, within one hour, and in rural areas, within two hours, as measured by the average annual response time.

Regions have not created new teams, but have added staff to the existing teams. The added staff has not resulted in sufficient capacity to provide the needed crisis response within two hours as required. During FY14 Q4 there were seventy-seven referrals for crisis intervention for fifty-seven individuals. The regions responded to thirty-five (45%) of seventy-seven requests in less than two hours and thirty-four in over two hours. The response time was not reported for eight of the referrals. DBHDS did not meet the expectation of responding within 2 hours.

This became a more stringent requirement as of June 30, 2014 when the teams were expected to respond to requests from urban areas in less than one hour and requests in rural areas in less than two hours. The DBHDS reports that Regions II and IV are urban areas and should meet the expectation of responding to a crisis referral within one hour. The response rates for FY15 Q1 are as follows:

Region II: 26 referrals responded to in one hour or less, five responded to in more than one hour

Region IV: Twenty-nine referrals responded to in one hour or less, five responded to in more than one hour

In Region II 19% and in Region IV 15% of the individuals were not responded to in the time the Settlement Agreement requires.

Regions I, III, and V are rural regions that are required to respond to crises in two hours or less. Regions I and III met this requirement for all but one individual each. Region V was unable to respond in two hours for five of its referrals. The average response time was eighty-nine minutes for Region I, sixty minutes for Region III, and sixty-five minutes for Region V.

Conclusion: The Commonwealth remains out of compliance with *Section III.C.6.b.ii.G.* The Commonwealth to date is in compliance with *Section III.C.6.b.ii.H* but its average response time will need to be evaluated over the fiscal year.

Recommendations: The START teams are expected to respond more quickly to crisis requests from individuals living in urban areas starting in FY15. The Commonwealth did not create two or more teams in each region as the Settlement Agreement required. It instead added members to the existing team in each region. However the Commonwealth continues to be non-compliant with this requirement. The Court should require the Commonwealth to fund and develop additional teams or hire remote staff in Regions that continue to be unable to meet the response expectations by the end of the next review period.

iii. Crisis Stabilization programs

A. Crisis stabilization programs offer a short-term alternative to institutionalization or hospitalization for individuals who need inpatient stabilization services.
B. Crisis stabilization programs shall be used as a last resort. The state shall ensure that, prior to transferring an individual to a crisis stabilization program, the mobile crisis team, in collaboration with the provider, has first attempted to resolve the crisis to avoid an out-of-home placement, and if that is not possible, has then attempted to locate another community-based placement that could serve as a short-term placement.
C. If an individual receives crisis stabilization services in a community-based placement instead of a crisis stabilization unit, the individual may be given the option of remaining in placement if the provider is willing to serve the individual and the provider can meet the needs of the individual as determined by the provider and the individual's case manager.
D. Crisis stabilization programs shall have no more than 6 beds and length of stay shall not exceed 30 days.

G. By June 30, 2013 the Commonwealth shall develop an additional crisis stabilization program in each region as determined to meet the needs of the target population in that region.

All regions now have a crisis stabilization program providing both emergency and planned respite. All Regions have six beds available.

Region IV remains in its temporary location. The home that I reported was located in the last reporting period to serve as the permanent site for the crisis stabilization unit could not be purchased. The DBHDS staff I interviewed did not indicate any particular urgency to find a permanent community location although the region continues to look. Members of the Regional Advisory Council that I spoke to are troubled by the current location due to being located on a campus with other facilities.

I visited the CTH in Region V. It is in a lovely setting that is very suitable for the purpose of the program. It is nicely appointed and maintained well. Individuals have private bedrooms and there is sufficient space inside the home and outdoors for visitors to choose times they wish to be on their own. Staffs are enthusiastic about the program. The visitors were all on outings in the community when I toured the setting so I didn't have the chance to interact with them.

Table 2 summarizes the number of individuals who used the Crisis Stabilization Units during the two quarters covered by this review. The regions continue to provide both emergency and planned respite in the REACH Crisis Stabilization Units. The programs now report on how many individuals use the program as a step down from a psychiatric hospital or training school. There were a total of 319 visits to the CTH programs. Unlike the last reporting period there were more visits for crisis stabilization (151) than for crisis prevention (128). Forty individuals used it as a step down site. This is a positive indication of the REACH program's efforts to work with individuals who require hospitalization to help them return to the community using effective transition services. It is also positive that DBHDS continues to offer planned respite in the REACH Crisis Stabilization Units for individuals at risk of crises. Four of the five regions report serving at least one individual from another region. The individuals in the planned columns include crisis prevention (the number before the slash) and step down (the number after the slash) use.

TABLE 2: INDIVIDUALS USING THE REACH CRISIS STABILIZATION UNITS DURING FY14 FOURTH QUARTER AND FY15 FIRST QUARTER

REGION	Q4 Emergency	Q4 Planned	Q1 Emergency	Q1 Planned	Total Emergency	Total Planned
I	11	13/2	14	6/ 3	25	19/5
II	10	19 /2	15	17/0	25	36/2
III	15	18/6	11	16/ 5	26	34/11
IV	15	4/9	35	4/ 7	50	8/16
V	12	14/3	13	17/3	25	31/6
TOTALS	63	68/22	88	60/18	151	128/40

DBHDS also reports on the individuals who are maintained in their home settings while the crisis situation is stabilized. The Regions continue to meet the needs of the majority of individuals referred for crisis stabilization in the community maintaining individuals in their setting and when needed providing community-based supports. Regions II, III, IV and V maintain over 98% of the individuals referred for community-based support in their own homes providing community-based supports whenever needed. (Although Region V's data may be inaccurate or defined differently since it also reports individuals using the CTH). The DBHDS should determine if its data definitions are applied consistently.

Overall the REACH program is meeting its goal of providing community-based crisis supports and using out of home crisis supports as a last report.

There is no indication that any other community placements were used for crisis stabilization during the reporting period for individuals who could not remain in their home setting. The Settlement Agreement requires the state to attempt to locate another community alternative before using the REACH Crisis Stabilization Unit. REACH teams are attempting to maintain individuals in their own homes with supports as the preferred approach to stabilize someone who is in crisis.

The REACH programs are not currently seeking community residential vacancies before using the Crisis Stabilization Units. In my professional opinion using vacancies in community residential programs is not a best practice. Dr. Beasley supports this perspective. Placing an individual who is in crisis into a home shared by other individuals who have I/DD is potentially destabilizing to those individuals for whom this is home. Additionally the practice potentially leaves the individual who is in crisis in an unfamiliar home, in the care of a staff person with whom he/she is unfamiliar and who is not trained to meet the needs of someone with a dual diagnosis who is experiencing a crisis. I will not recommend a determination of compliance regarding this provision until the Parties discuss it and decide if they want to maintain it as a requirement of the Agreement. I recommend that it not be a REACH practice.

The DBHDS is to determine if there is a need for additional crisis stabilization units to meet the needs of individuals in the target population. All of the Regions have unused bed days in both quarters of this reporting period. In FY14 Q4 they range from 266-324 with the exception of Region III that had only eighteen days unused. The five regions had similar availability in FY15 Q1 with a range of 179-342 unused days. Two Regions did not have anyone on the Waiting List. The other three regions had a waiting list in only one of the two quarters and it was not more than three individuals.

All regions have unused bed days at the CTH programs. This seems to indicate that at this time additional crisis stabilization units are not needed. Regions have enough capacity to assist other regions if during certain times one program is fully occupied. Four regions did serve someone from another region during the reporting period.

Conclusion: The Commonwealth of Virginia is in compliance with Sections III.C.6.b.iii.A, B, D, E, F and G. I will not make a determination about Section III.C.6.b.iii.C until the Parties

make a decision about the practice of using community residential resources for crisis stabilization.

SECTION 6: SUMMARY

The Commonwealth of Virginia continues to make progress to implement a statewide crisis response system for individuals with I/DD. It is promising that DBHDS has developed a plan to expand to provide crisis intervention and prevention to children and adolescents. It appears that there is a smooth transition to the REACH program and encouraging that DBHDS will create standards and continued expectations for staff training.

The Commonwealth is in compliance with the following Sections of the Settlement Agreement:

III.C.6.b.i.A
III.C.6.b.i.B
III.C.6.b.ii.A
III.C.6.b.ii.E
III.C.6.b.ii.H
III.C.6.b.iii.A
III.C.6.b.iii.B
III.C.6.b.iii.D
III.C.6.iii.E
III.C.6.iii.F
III.C.6.iii.G

The Commonwealth is not in compliance with the following Sections of the Settlement Agreement:

III.C.6.a.i
III.C.6a.ii
III.C.6.a.iii
III.C.6.b.ii.C
III.C.6.b.ii.G
IX.C.

Compliance cannot be determined for the following requirements because of a lack of data:

III.C.6.b.ii.B
III.C.6.b.ii.D

Recommendations are included throughout the report. DBHDS needs to provide administrative leadership to insure that comprehensive and well-coordinated crisis response services are available to children and adolescents with ID/D; that there is formal outreach to the DD community; that the mobile crisis teams meet the required time to respond to crises; that CSB ES staff, Case Managers and law enforcement personnel are trained about the REACH program; and that DBHDS develop a comprehensive data report

and tracking system that addresses the important elements of the REACH program. These have been consistent recommendations with the exception of the data recommendation. The Court may consider issuing orders regarding the Commonwealth's responsibility to provide crisis services for children and adolescents and assure information and access for individuals with DD.

APPENDIX C

INTEGRATED DAY ACTIVITIES
AND
SUPPORTED EMPLOYMENT

By: Kathryn du Pree MRP

2014 REVIEW OF THE INTEGRATED DAY ACTIVITIES AND SUPPORTED EMPLOYMENT REQUIREMENTS OF THE US v COMMONWEALTH OF VIRGINIA'S SETTLEMENT AGREEEMENT

REVIEW PERIOD: APRIL 2014– OCTOBER 6, 2014

SUBMITTED TO DONALD FLETCHER
INDEPENDENT REVIEWER

PREPARED BY: KATHRYN DU PREE, MPS
EXPERT REVIEWER

OCTOBER 31, 2014

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I. OVERVIEW OF REQUIREMENTS

Donald Fletcher, the Independent Reviewer has contracted with Kathryn du Pree as the Expert Consultant to perform the review of the employment services requirements of the Settlement Agreement for the time period 4/7/14 – 10/6/14. The review will determine the Commonwealth of Virginia's compliance with the following Section III.C. requirements:

7.a. To the greatest extent practicable the Commonwealth shall provide individuals in the target population receiving services under this agreement with integrated day opportunities, including supported employment.
7.b. The Commonwealth shall maintain its membership in the State Employment Leadership Network (SELN) established by NASDDDS; establish state policy on Employment First for the target population and include a term in the CSB Performance Contract requiring application of this policy; [use] the principles of employment first include offering employment as the first and priority service option; providing integrated work settings that pay individuals minimum wage; discussing and developing employment options with individuals through the person- centered planning process at least annually; and employ at least one employment services coordinator to monitor the implementation of employment first practices.
7.b.i. Within 180 days the Commonwealth shall develop an employment implementation plan to increase integrated day opportunities for individuals in the target population including supported employment, community volunteer activities, and other integrated day activities. The plan shall:

- *A. Provide regional training on the Employment First policy and strategies throughout the Commonwealth; and*
- *B. Establish, for individuals receiving services through the HCBS waivers:*
  - *1. Annual baseline information regarding:*

a. The number of individuals receiving supported employment;
b. The length of time people maintain employment in integrated work settings;
c. The amount of earnings from supported employment;
d. The number of individuals in pre-vocational services as defined in 12 VAC 30-120-211 in effect on the effective date of this Agreement; and
e. The lengths of time individuals remain in pre-vocational services

- *2. Targets to meaningfully increase:*

a. The number of individuals who enroll in supported employment in each year; and
b. The number of individuals who remain employed in integrated work settings at least 12 months after the start of supported employment

II. PURPOSE OF THE REVIEW

This review will build off the review completed last spring for the review period through 4/6/14 and the recommendations the Independent Reviewer made in his last Report as a result of the conclusions and findings of that review of Employment Services. At that time the Independent Reviewer determined that the Commonwealth was in compliance with: 7.b; 7.b.1.A; 7.B.1.a, b, d, e; and 7.B.2.a, b. Recommendations were made to further develop the Integrated Day Activities Implementation Plan, provide training and technical assistance to Case Managers to meet the requirements to offer individuals employment services and implement the services as part of the annual ISP review, and strengthen the

responsibilities of the CSBs to report the Case Manager planning activities, and the monitoring by DBHDS of these performance expectations.

This review will cover all areas of compliance to make sure the Commonwealth has sustained compliance in areas achieved during the last reporting period. It will focus on those areas that were not in compliance and the Independent Reviewer's related recommendations. This focus will be on:

- The Commonwealth's ability to meet the targets it set to be achieved by 3/31/14 (since the data was not available at the end of the last review) and the progress toward achieving the FY 2015 targets for the number of people in supported employment, those who remain for at least twelve months, and the average earnings for those in supported employment,
- The refinement of the implementation plan to increase integrated day activities for members of the target population including strategies, goals, action plans, interim milestones, resources, responsibilities, and a timeline for statewide implementation,
- The continued involvement of the SELN in developing the plan and reviewing the status of its implementation, and
- The expectation that individuals in the target population are offered employment as the first option by Case Managers and their teams during the individual planning process in which they discuss and develop employment goals.

III. REVIEW PROCESS

I reviewed relevant documents and interviewed key administrative staff of DBHDS, members of the SELN, and a member of the ODEP Vision Quest team to provide the data and information necessary to complete this review and determine compliance with the requirements of the Settlement Agreement. Initially a kickoff meeting was held in July 2014 with the Independent Reviewer, the Expert Reviewer, Heather Norton, Peggy Balak, and Adam Sass to review the process and clarify any components before initiating the review.

Document Review: Documents reviewed include:

1. Virginia's Plan to Increase Employment Opportunities for Individuals with Intellectual and Developmental Disabilities: FY2013-2015: Goals, Strategies, and Action Items
2. The Commonwealth's Plan to develop integrated day services including volunteer activities and community recreation
3. New Targets set for the target population
4. Quarterly Reports for the time period 4/7/14-10/6/14
5. SELN Work Group meeting minutes relevant to the areas of focus for this review
6. ODEP Vision Quest Recommendations
7. Employment Services Training Module for Case Managers

Interviews: The Expert Reviewer interviewed Adam Sass Employment Services Specialist from DBHDS, members of the SELN, Serena Lowe ODEP; Connie Cochran, Assistant Commissioner for Developmental Services, Peggy Balak, Settlement Agreement Coordinator, and Heather Norton, Director of Community Support Services, DBHDS

Review of Individual Service Plans (ISPs): The Expert Reviewer reviewed a random sample of ISPs to determine if employment is being offered as the first option to individuals in the target population. This was accomplished by randomly selecting a sample of twenty-

four individuals from the five regions from the following groups: individuals who have been on the Waiting List and have received funding for day services within the reporting period (15); and individuals already in a Group Supported Employment or day service setting who had an annual ISP meeting within the review period (9). Donald Fletcher and his review team reviewed the services of randomly selected individuals who had transitioned from the Training Centers to the community. They gathered information about employment planning and services that are summarized separately in the Independent Reviewer's Report to the Court.

IV. THE EMPLOYMENT IMPLEMENTATION PLAN

7.b.i.A. Within 180 days the Commonwealth shall develop an employment implementation plan to increase integrated day opportunities for individuals in the target population, including supported employment, community volunteer and recreational activities, and other integrated day activities. The plan shall:

A. Provide regional training on the Employment First policy and strategies throughout the Commonwealth:

Adam Sass, Employment Specialist, DBHDS continues to provide extensive training on the Employment First Initiative in Virginia. In this reporting period, April 7, 2014-October 6, 2014 Mr. Sass presented to more than 640 individuals at numerous meetings, conferences and the regional summit. Presentations have been made to ID Case Managers; providers; CSB staff and Training Center staff. Many of the presentations have been made collaboratively with DARS staff. DBHDS still did not include families as a target group to receive this training during the reporting period as was true in the previous reporting period.

The handout materials and talking points indicate that the philosophy of employment first and its tenets are addressed. Mr. Sass uses the opportunities for these presentations to create community linkages and partnerships to further the acceptance of the employment first philosophy and encourage implementation.

During the last review I reported that the SELN sub-committee completed a module on employment for case managers. Since that time DBHDS has made it more comprehensive to include more information about integrating the discussions of employment in the person-centered planning process, to address the question of benefits and to provide more resources for case managers as they seek to implement their responsibilities to help individuals become employed doing work that is of interest to them. It has been piloted with a few groups of Case Managers and is available on the DBHDS website. DBHDS reports that Case Managers for both ID and DD will be required to take the training. Ensuring that Case Managers are well trained should improve the Commonwealth's compliance with its responsibility to ensure that they discuss employment options with all individuals and their Authorized Representatives covered by the agreement and help them to explore and find appropriate employment opportunities.

Conclusion and Recommendations: DBHDS is in compliance with provision *7.b.i.A* that it provides regional training on the Employment First policy and strategies. I continue to recommend, however, that the Commonwealth determine how best to share this

information with individuals and their families/Authorized Representatives, those whose lives will be most impacted by implementation of the Employment First policy principle that supported employment is the first and priority service option. The Commonwealth should report in the future on its outreach to this group.

7.b.i.B.a-e: The Commonwealth is to develop an employment implementation plan to increase integrated day opportunities for individuals in the target population including supported employment, community volunteer activities, and other integrated day activities. The plan shall establish, for individuals receiving services through the HCBS waivers:
Annual baseline information regarding:

a. The number of individuals receiving supported employment;
b. The length of time people maintain employment in integrated work settings;
c. The amount of earning from supported employment;
d. The number of individuals in pre-vocational services; and
e. The lengths of time individuals remain in pre-vocational services.

DBHDS continues to provide annual baseline information about the number of individuals receiving supported employment, the length of time people maintain employment in integrated work settings, the number of individuals in pre-vocational services and the length of time individuals remain in pre-vocational services. There continues to be no data on the amount of earnings for individuals.

The DBHDS provides all of this information on a quarterly basis that is helpful. To provide a truer sense of status and progress it is more informative to examine changes over a year's period of time.

Individual Employment- The number of individuals enrolled in Individual Employment has actually decreased in the last year from 204 individuals to 200 individuals. There was a drop to 176 individuals at the end of the 3rd quarter of 2014 and then an increase in each of the next two quarters of eighteen and six individuals respectively. The number of newly enrolled individuals ranged from 23-43 across the quarters. More individuals actually discontinued services in the past four quarters (132) than who initiated services (128). DBHDS cannot report the reasons why individuals discontinue IE services. To be able to analyze why individuals discontinued services requires knowing It would be helpful to know how many found competitive employment and discontinued, because the program was successful and they no longer needed IE supports.

Group Supported Employment-GSE increased its overall enrollment by twenty-six individuals during the past four quarters. The total number of new enrollees during the year totaled 212 while 186 discontinued services. The number that stopped receiving GSE is significantly higher than the number of new enrollees in IS. It would be interesting to know the reasons for individuals discontinuing these services and if any enrolled in IE.

Pre-Vocational Services- Individuals continue to enroll in Pre-Vocational Services. During the past year 285 individuals started in this service type, and 272 discontinued participation in Pre-Vocational Services. Overall the growth in the service was fifteen. It

appears that 286 individuals have been in Pre-Vocational Services for twelve to thirty-three months, subtracting the numbers of individuals who newly enrolled and those who discontinued services. Pre-Vocational Services should be a pre-cursor to group, individual or competitive employment. Individuals should be intensely learning and acquiring skills that assist them to be employable. The time in pre-vocation should be individualized but time limited. It is concerning that many individuals appear to be stuck in the pre-vocational option. Many appear to be in this service type for longer than the year DBHDS stipulates in its revised waiver service definitions.

Conclusion and Recommendations: The DBHDS is in compliance with *7.b.i.B.1.a, d, and e.* I no longer find DBHDS in compliance with *7.b.i.B.b.* The data the agency provided about the length of time an individual stays employed is duplicative and not meaningful. DBHDS is not in compliance with *7.b.i.c*. It is unable to provide any information about the amount of earnings individuals receive in IE.

DBHDS is not making progress towards enrolling more individuals in IE. Fewer individuals were enrolled in the past four quarters (128) than in the previous four quarters (156). More individuals are exiting from IE than are enrolling, which may or may not be attributed to becoming competitively employed. The SELN should be involved in reviewing this data on a regular basis and assisting the DBHDS to analyze the continued growth in GSE and Pre-Vocational Services to determine if there are strategies that can be put in place prior to the completion of the waiver redesign that will start to turn the curve in Virginia away from other vocational options and towards greater individualized employment for the target population. This is an important undertaking if the DBHDS is going to be able to meet the targets it has set for the next five years to increase the number of people in IE by five percent of the total of everyone in adult day services through the HCBS waivers in each of the next five fiscal years. DBHDS would benefit from an ongoing analysis of the departures from these program types. To determine needed corrective actions, it is essential to know the frequency of individuals who discontinue services as an indication of a positive outcome, i.e. because of opportunities for more integrated employment, or a negative outcome.

The DBHDS should report separately in future reporting periods about the ID and DD waivers and the numbers of individuals in ISE so that the impact of the Settlement Agreement on both populations can be followed and tracked. It remains impossible to tell the impact on individuals with DD of the employment requirements of the Settlement Agreement The DBHDS also needs to develop a report that provides information on the wages individuals earn. These are repeat determinations of non-compliance, and recommendations, that have not been addressed. A new recommendation is for DBHDS to accurately report how long individuals maintain their employment and how long individuals stay in GSE and Pre-Vocational Services.

The Parties should decide what if any outcomes are expected and required in the following areas: the amount of earnings; the number of individuals in pre-vocational services; and the length of time individuals are in pre-vocational services. Currently the Agreement only requires that DBHDS report accurately on these data elements.

V. SETTING EMPLOYMENT TARGETS

Sections 7.i.B.2.a and b. require the Commonwealth to set targets to meaningfully increase the number of individuals who enroll in supported employment in each year and the number of individuals who remain employed in integrated work settings at least 12 months after the start of supported employment.

The new DBHDS targets depicted in Table 1 are for the total number of individuals in IE for each of the next five fiscal years. DBHDS projected starting FY15 with 204 individuals enrolled in ISE. The actual number was 194.

The target the department has set for the end of FY15 is 568 individuals which more than doubles the expectation of serving 204 by the start of FY15 and is triple the number of individuals who were enrolled as of 12/31/13. DBHDS has only enrolled forty -three new individuals in Individual Employment in the First Quarter of 2015. It is not possible to draw any definite conclusion from performance in one quarter. It is of concern, however, that DBHDS needs to enroll an average of 175 individuals in IE for each of the next three quarters to reach its target. Forty-nine is the highest number of individuals who have been enrolled in any one-quarter since the agency started reporting this data element.

As indicated in the previous report, the DBHDS has to take timely and well-planned action to address the various barriers to achieving these targets if the goal of more individuals being employed in integrated work settings is to be realized. The work underway to redesign the waivers is a critical step. However implementation of the wavier revisions will not start until FY16. The DBHDS should describe the steps it plans to take to increase enrollment in Individual Employment by a total of 568 individual by the end of this fiscal year without the waiver redesign. The DBHDS should utilize the expertise of the SELN to define what else needs to be put in place and what can be accomplished before the redesign is completed and implemented so that progress towards achieving and sustaining compliance is made.

Table 1: EMPLOYMENT TARGETS FOR FY15 – FY19

Fiscal Year	SE Total Start of FY	Total in day - Employment Services	% in SE at start of FY	% in SE by end of FY	SE Total End of FY	Increase in Base %
15	204	7292	2.79%	7.79%	568	5%
16	568	7292	7.79%	12.79%	932	5%
17	932	7292	12.79%	17.79%	1297	5%
18	1297	7292	17.79%	22.79%	1661	5%
19	1661	7292	22.79%	27.79%	2026	5%

Increasing the number of individuals in IE: The DBHDS created the goal for this fiscal year to increase the number of newly enrolled participants in ISE apart from the overall change to the total number in ISE as that number accounts for individuals who remain, leave and newly enroll. The target the DBHDS set to achieve by 3/31/14 was to newly enroll 162 individuals. At the time the last Employment Services Report was prepared the

final information from the quarter ending 3/31/14 was not available. It is included here in Table 2. The DBHDS did not achieve its target of enrolling an additional 162 individuals in Individual Employment. The number in parentheses represents the number of individuals newly enrolled each quarter. The italicized numbers represent the cumulative total across the quarters.

Table 2: Progress Towards Meeting The Employment First Target of Increasing the Number of IE Participants

6/30/13	9/30/13	12/31/13	3/31/14	***3/31/14 Target***	***Difference***
(32)	***81*** (49)	***104***(23)	***130*** (26)	**162**	**32 (-)**

Individuals in Supported Employment and Pre-Vocational Services:

The increase in the number of individuals in IE has increased by twenty-four individuals during this reporting period. However it is actually lower than a year ago. The number of individual enrolled in ISE at the end of the First Quarter of 2015 was 200 and the number at the end of the First Quarter for 2014 was 204. The number of individuals who continued employment across quarters was 158 at the end of FY14 Quarter 4 and 157 at the end of FY15 First Quarter. Individuals who were newly enrolled in each quarter total thirty-six and forty-three respectively. The overall number of individuals in Individual Employment has increased by forty-one individuals in this reporting period as a result of the increase in participation in both IE and GSE.

The Commonwealth 's plan is to decrease the participation in Pre-Vocational Services but that number continues to increase. Fifty-seven individuals were newly enrolled in Pre-Vocational Services in the Fourth Quarter of 2104 and eight-five individuals were newly enrolled in the First Quarter of 2015. The number enrolled in the most recent quarter (7/1/14-9/30/14) is the highest number of individuals since DBHDS started reporting. There is a net increase of thirty-eight additional people in pre-vocational services since the baseline was set for 3/31/13.

Individuals who maintain employment through ISE: The DBHDS reports on the number of individuals who maintain employment but the data includes duplicative counts. There were 204 individuals in IE twelve months ago (the end of the 1st Quarter for Fiscal Year 2014). There are now 200 individuals in IE. One hundred twenty-eight (128) enrolled during the last four quarters. That would indicate that seventy-two individuals have been employed for at least twelve months which is 36% of the individuals in IS. The DBHDS target is for 85% of the individuals to remain employed for at least twelve months.
The current data collected by DBHDS makes it impossible to accurately determine how long individuals remain employed. There is great duplication in the data on individuals enrolling and leaving during a quarter that only adds to the inaccuracy. Also, what the Commonwealth measured is the length of time the individual is with an Employment Support Organization that is not necessarily the length of time the individual is employed. Adam Sass informed me that the DBHDS plans to use a new method of data collection that

will rely on the ESOs to provide this data. The data elements will be more clearly defined and more specific and include information on wages. However there is still potential for duplicate counting, as it doesn't factor for individuals changing ESOs or changing employer. It seems that in the long run DBHDS needs to develop its own data repository for employment data.

The goal is to reach 85% of the total number of individuals in ISE who remain employed for 12 or more months. The DBHDS continues to not meet its target of maintaining employment for individuals for at least 12 months.

Conclusions and Recommendations: The Commonwealth is not in compliance with *Section 7.b.i.B.2.a and b*. It has not made meaningful progress toward its targets to either increase the number of individuals who enroll in supported employment or for individuals to maintain employment for at least twelve months.

I recommend that DBHDS track the progress towards meeting the targets that separately identifies individuals with ID and DD who participate in IE to enable the Commonwealth and the Independent Reviewer to determine if DBHDS is successfully meeting the employment needs of both groups that are part of the target population.

In order for the Commonwealth to reach these targets the DBHDS will need to concentrate its efforts to complete its waiver redesign plan to address employment service definitions and to revise its rate structure, to focus on building provider capacity, to consider offering individuals the opportunity to self-direct their employment supports, and to train all case managers in the Employment First policy and in using the principles of person-centered planning to help individuals and their families identify and pursue their employment goals and aspirations.

I recommend that the Commonwealth further refine these targets by indicating the number of individuals it hopes to provide IE to from the following groups: individuals currently participating in GSE or pre-vocational programs; individuals in the target population who are leaving the Training Centers; and individuals in the target population who become waiver participants during the implementation of the Settlement Agreement. Creating these sub-groups with specific goals for increased employment for each will assist DBHDS to set measurable and achievable goals within the overall target and make the undertaking more manageable and strategic. Realistic and successful marketing and training approaches to target these specific groups can be developed through discussions between the DBHDS and the SELN to reach out to families, Service Coordinators CSBs, Training Center staff, and ESOs to assist the DBHDS to achieve its overall targets in each of the next five fiscal years.

The DBHDS needs to ascertain why so few individuals are maintaining Individual Employment. Strategies to improve the employment retention can be developed and will have a greater likelihood of being successful once the reasons are known.

VI. The Plan for Increasing Opportunities for Integrated Day Activities

7.a. To the greatest extent practicable the Commonwealth shall provide individuals in the target population receiving services under this agreement with integrated day opportunities, including supported employment.

Waiver Redesign: The Commonwealth is continuing its planning of a significant redesign of its HCBS waivers serving individuals with ID and DD. The new waiver application will include a definition for integrated day activities. It will revise the definition of supported employment, restructure the rates for waiver services and redesign the implementation of the SIS. The SIS is used as an initial assessment tool and an indicator of the individual's level of need for support. Various work groups have been convened to assure broad input from stakeholders. The SELN had some input into the definitions of supported employment but was not formally linked to the waiver redesign work group. The SELN did develop the definition for integrated day activities. The Commonwealth plans to submit its new waiver design in FY15 to begin implementation in FY16.

The Waiver elements are designed to align the intensity of need of the individual with resource allocation. DBHDS reports that providers will need to be qualified and also demonstrate the necessary competencies to serve individuals with more complex needs. DBHDS plans to have basic and enhanced rates to promote the use of integrated day activities that rely on more intensive staffing patterns, at least for periods of time, until the individual can more regularly use natural supports and their community connections. As currently conceptualized, the waiver will include the option of consumer –directed services and will utilize an individual budgeting methodology.

Integrated Day Activity Plan: The DBHDS is required to provide integrated day activities, including supported employment for the target population. The Settlement Agreement states: *To the greatest extent practicable, the Commonwealth shall provide individuals in the target population receiving services under the Agreement with integrated day opportunities, including supported employment.*

Since the Commonwealth entered into the Settlement Agreement with the US DOJ, DBHDS has focused its work and activities on increasing employment opportunities for individuals with ID and DD. With rare exception providers in Virginia do not offer individuals who are not employed other types of integrated day activities. DBHDS was directed by the Independent Reviewer to develop a plan by March 31,2014 describing its approach to create integrated day activity capacity throughout its provider community and ensure that individuals in the target population can participated in these integrated activities as the foundation of their day programs.

DBHDS submitted a preliminary plan describing the "strategies and activities necessary to create a blueprint for DBHDS, the provider community, other state departments, and the stakeholder community to increase and emphasize integrated day activities for people with intellectual and developmental disabilities in the Commonwealth of Virginia." The plan includes Virginia's vision for integrated day activity; three goals with related objectives; strengths and challenges; and the project approach.

The Commonwealth was not in compliance with *7.a.* as of the last review (April 2014). I recommended at the time that the DBHDS develop more specific objectives, an implementation plan, and an indication of the resources it will commit to complete the implementation plan within the timeframes established. This was to be submitted to the Independent Reviewer early in FY15 for a more in-depth review by the Expert Reviewer. DBHDS developed its Integrated Day Activity Plan on July 2014. It does not address all of the recommendations I made my April 2014 Report to the Independent Reviewer. This report indicates the DBHDS will convene a meeting by mid-October and submit a full plan by December 2014. The DBHDS continues to neither offer integrated day activities to individuals with ID/DD nor has a specific implementation to do so.

Virginia's vision is to have an array of integrated service opportunities available for individuals with disabilities and wants individuals to be able to choose to have services delivered to them in the least restrictive and most integrated setting. The SELN has developed a robust definition of Integrated Day Activities that will be used to define this service type in the new waiver. The definition the plan offers of integrated day activities assures they are meaningful, offered at times to benefit the person to have an active community-based daily routine, including community education or training, retirement, recreation and volunteer activities. The definition is outcome focused. Integrated day activities must be offered in the community, facilitate the development of meaningful relationships wit typical individuals, and facilitate community inclusion. The transportation that is included will be a key element to successfully offering these services. The DBHDS is to be commended on developing this comprehensive definition of integrated day activities. The revised plan does include more specific objectives than the previous plan but is not on track to meet the timelines for all of the objectives. As an example DBHDS was to develop a plan to educate all stakeholders about integrated day activity philosophy and support definitions by 8/1/14. The DBHDS planned to conduct a review of all policies, regulations and training materials regarding the current provision of day activities to insure that none of them had a negative effect on integrated day activities. This was scheduled to be completed by 8/22/14 but was not completed by the time I interviewed DBHDS staff in mid-September.

The rates and funding for these services is still not specified. The rate development is part of the waiver redesign and the plan indicates that funding will be addressed by the General Assembly *if funding increases are needed* (italics added) in March 2015. DBHDS has not done any projection of how many individuals will want or need integrated day activities separate from IS. It is a more costly service than the existing day habilitation model due to staffing ratios and transportation so it is difficult to understand how it could be offered without targeted funding.

The Plan includes a section on System Transformation with a long range goal of: "structures, at both the state and provider level, will support delivery of Integrated Day Activities in the least restrictive and most integrated settings appropriate to the specific needs of the individual as identified through the person-centered planning process." It is positive that the plan includes statewide training for providers, families, individuals and other stakeholders; the development of a guide book, ensuring that providers can provide the necessary supports, the development of provider interest in delivering integrated day

activities, and work with education agencies to discuss this option during transition planning. All of these occur between March 2015 and January 2016. They all need greater specificity in the plan that is to be finalized in December 2014. The Plan does not address the need to educate CSBs and ID/DD Case Managers but needs to include these groups as priority trainees.

The revised plan does not specifically address:

- ✓ How need for these services will be assessed
- ✓ What the anticipated impact is on providers of congregate day services or how this will be determined and what the DBHDS policy will be about this service delivery model
- ✓ How teams will be instructed to use the person-centered planning process to introduce this service option and plan appropriate goals and objectives for the individual
- ✓ Training for CSBs and both ID and DD Case Managers
- ✓ Assessing existing provider capacity and determining how to expand this if necessary
- ✓ Qualifying providers

Conclusion and Recommendations:

The Commonwealth is not in compliance with *III.C.7.a.* It does not have a comprehensive implementation plan and it still is unable to offer its consumers integrated day activities. DBHDS has issued a RFP in northern Virginia for providers to convert their existing day habilitation programs to integrated day activities. The RFP also seeks integrated housing in this area. DBHDS will provide the funding for this undertaking. Two *arc's* in Central and Western Virginia are talking to DBHDS about voluntarily converting their non-integrated day programs using existing funding and within the current rate structure. These efforts are to be applauded.

However it is troubling that the Commonwealth does not plan to offer this service across the Commonwealth until FY16 when the new waiver is implemented which may be as late as February 2016. The Commonwealth committed to this endeavor in 2012 as a result of the Settlement Agreement. A new service was not expected to be in place immediately but it is concerning that the initial implementation is at least 12-18 months from now. To be successful by that time, the DBHDS must develop, more specific plans as to how it will work with the current provider network to prepare them and with the CSBs and Case Managers to introduce this service concept into the person-centered planning process. The Independent Reviewer may want to seek an order from the Court for the Commonwealth to submit a specific plan that includes an assessment of need, the number of individuals it will serve in each remaining year of the Settlement Agreement, and a funding request to the Legislature for each of those years for the identified number of individuals.

VII. Review of the SELN and The Inclusion of Employment in the Person-Centered ISP Planning Process

III.C.7.b. The Commonwealth shall:

- ✓ *Maintain its membership in the SELN established by NASDDDS.*
- ✓ *Establish a state policy on Employment First (EF) for this target population and include a term in the CSB Performance Contract requiring application of this policy.*
- ✓ *The principles of the Employment First Policy include offering employment as the first and priority service option; providing integrated work settings that pay individuals minimum wage; discussing employment options with individuals through the person-centered planning process at least annually.*
- ✓ *Employ at least one Employment Services Coordinator to monitor the implementation of the employment first practices.*

Virginia has maintained its membership in the SELN and issued a policy on Employment First. DBHDS continues to employ the Employment Services Coordinator. This review will explore the activities and work of the SELN and focus on whether employment is being offered as the first option to individuals in the target population.

ISPS That Include Employment: Part of this review is to determine if the expectation that individuals in the target population are offered employment as the first option by Case Managers and their teams during the individual planning process in which they discuss and develop employment goals. I have reviewed a random sample of ISPs. I requested the list of all individuals in the following groups who are part of the target population: individuals already in Group Supported Employment (GSE) or Pre-Vocational Services who had an annual ISP meeting during the reporting period and individual on the waiting list who received funding for day services during FY14. Lists were provided to me from the five regions and I randomly selected a total of nine individuals who are already receiving waiver services, either GSE or Pre-Vocational, and fifteen individuals who were newly authorized for waiver day services. I requested the most recent ISP, vocational assessments and any relevant progress notes. I received documents for eighteen of the twenty-four individuals I requested. Not all CSBs complied with the request to submit the randomly selected ISPs in a timely manner and one or two files were corrupted so could not be shared.

The purpose of reviewing these plans is to provide a sense of the DBHDS' progress in meeting the requirement of the Settlement Agreement to offer members of the class employment as the first option for day services using the person-centered planning process. As indicators to make this determination, the following questions were asked:

1. Has the Case Manager and planning team discussed the availability of employment supports with the person and the guardian?
2. Has the Case Manager determined the individual's interest in employment?
3. Has the person been asked what type of job he or she would prefer or choose?
4. Has there been a discussion of the initial steps the team needs to take to assist the person to become employed?

5.Has a vocational assessment been requested and conducted if the individual, guardian or team recommends it?
6. Has the Case Manager made referrals to employment service providers if the individual is interested in supported employment?
7. Have employment services been developed and initiated for the individual in the time period recommended by the team?

I reviewed the records provided. In some cases they were not complete especially regarding the vocational assessment. I reported this to DBHDS but did not receive any additional information. I reviewed a total of twenty-one individuals including: four in day habilitation, six in pre-vocational services, and eleven in GSE. The summary of the number of individuals for whom an indicator was met and the percentage this represents for each service type and the overall percentage of the positive responses to the questions is provided in ***Table 3*** on page 18. Out of the entire group Case Managers have discussed the availability of individual employment supports with only two of the eighteen individuals. Case Managers learned of the individual's interest in working for ten of the individuals and pursued a discussion about the type of job the individual might want with six of the individuals. There was no discussion about the initial steps to be taken to assist the person to be employed with anyone in either day support or pre-vocational services and with only four of the eleven individuals in GSE settings. No one was referred for individual employment even those who expressed strong interest.

Some additional themes emerge from the individual reviews. A fair number of the individuals experience difficulty with consistent transportation to their Pre-Vocational or GSE setting. This will be a barrier to assisting individuals to consistently work and to arrive at work on schedule, which employers will expect. Case Managers spend a significant amount of time addressing this issue with families and transportation providers. Case Managers are making their monthly visits and documenting the results in the progress notes. However the visits made to the day or work setting rarely include a review of the person's progress toward meeting work related goals and objectives. It is more a summary of the person's satisfaction and the socialization of the individual. When the person is asked about their preferences and interests in work there does not appear to be a detailed discussion, any real probing nor does it naturally lead to a discussion of the steps the team should take to assist the individual to prepare for and find employment. One person's situation was particularly troubling. He is part of an enclave now. He wants a job as a dishwasher and is also frustrated by the lack of work. The SC informs him that waiver programs often have down time and she will not move him every time there is a shortage of work. She also told him if he doesn't want to do a waiver job he is on his own to find a job for himself in the community.

The CSBs by contract are to report on the engagement of the Case Managers with individuals regarding employment opportunities and employment planning. Case Managers were to report on this in FY14 but the DBHDS cannot verify whether this was done. The Performance Contract with the CSBs has been modified for FY15 and 16 to more specifically require reporting. Exhibit B Performance Measures requires the CSB to report quarterly regarding the discussion of integrated community based employment during the

ISP meetings and those who have employment related goals in their ISPs. This is a promising step.

TABLE 3: SUMMARY OF INDIVIDUAL REVIEWS FOR EMPLOYMENT

Question	Day Service (YES)	Pre-Voc (YES)	GSE (YES)	Total Percentage Met
1	0	0 (0%)	2 (18%)	(9.5%)
2	2 (50%)	2 (33%)	6 (55%)	(48%)
3	2 (50%)	0 (0%)	4 (36%)	(29%)
4	0 (0%)	0 (0%)	4(36%)	(19%)
5	1 (25%)	1 (17%)	7 (64%)	(43%)
6	0 (0%)	0 (0%)	0 (0%)	(0%)
7	(N/A)	(N/A)	(N/A)	(N/A)

Conclusion and Recommendations (review of the CSB requirements for introducing employment options): The Settlement Agreement requires the Commonwealth to ensure that individuals in the target population are offered employment as the first day service option. DBHDS is clarifying this expectation through the Performance Contracts with the CSBs for FY2015 and FY2016. The training it has developed for Case Managers is well done and provides an excellent orientation and overview to the DBHDS expectations. DBHDS reports it will be required for all ID and DD Case Managers. Supervisors should be mandated to attend the training as well.

My review of this small sample of ISPs validates the need for more formal communication and direction to the CSBs from DBHDS. CSBs use different formats for the Person-Centered Plans although more appear to use a common one than during the previous review. The format does not stress employment not does it include prompt questions that could help a Case Manager make sure to address employment interests, choices, skills and dreams. It is a topic that is not discussed until well into the plan if the team uses the planning document as a guide for its discussion.

The most common ISP format has a section in which the consumer or guardian indicates whether the plan meets the person's expectations and dreams. Every plan I reviewed that included this section had all of the boxes including that the plan meets the person's work dreams checked affirmatively. This was similar to my findings from the last review of employment services conducted in April 2014. I would surmise that this has become a pro forma process and is not reflective of a meaningful discussion of the individual's goals and aspirations at least in the area of employment since it was checked off for everyone whether or not they had any work or work preparation in their plan. The planned Case Management training is a first step to address this concern.

During the last reporting period DBHDS reported that there is a provision in the FY13 and FY14 Community Services Performance Contract that requires the CSBs to comply with *Section III.C.7.b* of the Settlement Agreement. DBHDS reformatted its planning form so that employment would be the first topic discussed with the individual and ISP team. The case

manager was to submit a report that confirms that employment options were discussed. Workgroup 8 was charged to verify that case managers were in compliance with this requirement.

DBHDS has revised this in the CSB Performance Contract for FY2015 and 2016. It requires the CSBs to monitor and collect data and report on these performance measures:

I.C. The number of employment aged adults receiving case management services from the CSB whose case manager discussed integrated, community-based employment with them during their annual ISP meeting, and

I.D. The percentage of employment-aged adults in the DOJ Settlement Agreement population whose ISP included employment-related or employment-readiness goals. From the small sample of ISPs I reviewed there is no indication that CSBs are in compliance with the Performance Contract regarding employment planning for members of the target population or with the requirement to include employment related or readiness goals in the ISP. If the CSBs rely on the checked boxes that the plan "meets the person's work dreams", then their reporting will not be accurate. Case Managers should be provided with prompt questions to help them structure a conversation with individuals about their work dreams.

DBHDS needs to report on how they will analyze, monitor and follow up on these reports. The DBHDS does not monitor the employment first requirements with DD Case Managers. They should develop a similar review process for the ISPs that DD Case Managers develop for individuals with DD who are not served by the CSBs.

The Commonwealth is not in compliance with *III.C.7.b.* It is positive that DBHDS has revised the performance reporting requirements for the CSBs for the current and future fiscal years. Quarterly reporting by the CSBs will provide DBHDS with accurate and current information about the implementation of Employment First. DBHDS needs to establish its own quality review protocol to analyze these reports and have a follow up strategy to work with any CSBs that are not in effectively complying with the performance contract provision. Corrective strategies should be required and there need to be consequences if progress is not achieved.

The Engagement of the SELN: The VA SELN Advisory Group role is to assist DBHDS to develop its strategic employment plan, set the targets for the number of individuals in the target population who will be employed, and provide ongoing assistance to implement the plan and the Employment First Policy. This past year input was sought from SELN members to revise the definitions of employment services and to define integrated day opportunities which are also required as part of the Settlement Agreement. The VA SELN Advisory Group that was established in 2008, includes self-advocates, family members, advocacy organization members, CSB staff, state agency administrators, educators, and employment providers.

I interviewed nine VA SELN members as part of the review of Employment Services in 2013 and the spring of 2014. The interviews included representatives of CSBs, educators, families, advocates, self- advocates, state agencies and providers. In light of concerns interviewees expressed about the operation of the SELN and the group's ability to have meaningful input into the employment planning process, I chose to interview as many of the same members as were available for this review. I asked all of the members interviewed about the operation of the SELN and the opportunity for input into the DBHDS planning process; target setting; training for case managers; the development of the plan for integrated day services; and outreach to the DD community.

1. ***The operations of the SELN and the opportunity afforded to its members to have input into the planning process.*** The members appreciate the co-leadership of Adam Sass and Heather Norton. They report that the meeting in August focused on revamping the operational guidelines and setting the direction for the coming year The vast majority of the SELN members interviewed spoke of improvements in the organization of the SELN committee meetings. They all are encouraged by the effort to revise the by-laws.

Members report having opportunity for input and are pleased that the group is making progress. Various sub-committees have been formed providing a structure that can assist the SELN to continue to move forward with its work. A sub-committee developed the Integrated Day Plan and proposed the definition that could be used in the waiver application.

Although there was acknowledgement that progress had been made during the last year to improve the SELN's effectiveness, some of the members interviewed believe formalizing the membership and advisory group structure can further strengthen the group. Some of those interviewed recommended that a charter be developed in addition to the by-laws and that members be more formally appointed with expectations for attendance. This would enable the group to be constituted with consistent membership and meet on a regular, predictable basis. There is no set annual schedule and there have been cancellations and re-scheduling. There have been improvements in getting agendas and documents shared prior to a meeting but this is not yet consistent. At the meeting to discuss the plan to develop integrated day services, the draft was shared the night before the meeting. Members also reported not getting written copies of the final proposal setting employment targets.

Members also report that there is still repeated discussion of certain topics without resolution. They credit this to being the result of inconsistent membership and attendance. Suggestions were made to rotate the location of the meetings and use webinars to help members participate remotely. Some members suggested that the size of the SELN be reduced to make it more efficient and productive. Members who cannot attend meetings regularly may need to be replaced by individuals whose schedules support active participation.

Goal 6 of Virginia's Plan to Increase Employment Opportunities for Individuals with Intellectual and Developmental Disabilities FY2013-2015 addresses this issue. It states

that the SELN will have formalized structure with clearly defined roles and responsibilities for members. The recommended actions include to agree on representation, to develop by-laws, and to appoint members and orient new members. This was accomplished at the August 2014 meeting. Members hope the changes will increase the success of the VA SELN in impacting state employment policy
The VA SELN recommended that a separate group be established to address the need to develop and implement integrated day services. This may help to ensure that the SELN can continue to focus on increasing employment.

2.Development and monitoring of the Employment targets for FY15-FY19:

The VA SELN had meaningful input into establishing the employment targets during the lat reporting period. However, the DBHDS does not regularly share the progress reports with the SELN. This should be a standing agenda item so that the SELN can be aware of progress or barriers to achieving the projections on a quarterly basis and make recommendations for any needed mid-year corrections. The SELN can comment on the impact of inter-agency coordination, the role out of employment first initiative with Case Management, and provider capacity.

3. Inter-agency coordination: The SELN includes representatives from the other key state agencies. They are enthusiastic members of the SELN. Recently Assistant Commissioner Cochran has started to have administrative discussions with DARS and DOE at an administrative level that has led to discussion of an interagency project in one region of Virginia to improve the school to work outcomes for students graduating who have ID/DD.

The Goals, Strategies and Action Items associated with Virginia's Plan to Increase Employment Opportunities for Individuals with Intellectual and Developmental Disabilities FY 2013- FY 2015 includes the following as its first goal: ***Align licensing, certification, accreditation, data collection and other activities between state agencies that facilitates employment for individuals with disabilities.*** There has not been any movement on two of its sub goals related to collecting data and providing education across agencies regarding allowable employment activities under Medicaid waiver programs. The SELN members also report there are no MOUs regarding data sharing.

There has been progress on creating a more coordinated and person-friendly transition from DARS to DBHDS funding for individuals in employment programs. It is important that the leadership of DBHDS works with the other key agencies on measurable goals and engages the SELN members to assist with the achievement of these goals.

4. Outreach to the DD Community: Members of the VA SELN who I interviewed were not aware of any specific outreach efforts to individuals with developmental disabilities or their families. This is not a topic that has been discussed or addressed by the VA SELN. Members report some frustration that there is not an organized outreach effort to individuals with intellectual disabilities and their families either, although they appreciate the efforts made by the DBHDS to present employment information at various regional forums across the state. They do recommend that there be dialogue with the CSBs to more formally provide information to individuals and their families about employment services

and that DBHDS share information more consistently with school systems. DBHDS has had responsibility for the DD waiver since November 2013. It has still not developed a specific outreach plan for participants and their families. The SELN might benefit from including more representatives of the DD Community to assist the department with outreach strategies to reach this target population. I have made this recommendation since the beginning of the reviews of Employment Services. It is telling that all of the individuals in the sample were from the ID waiver. The Commonwealth's DBHDS should be required to develop, fund, and implement an outreach plan for individuals with DD and their families.

5. ***Development of the Plan for Integrated Day Activities:*** The VA SELN formed a sub-committee to further develop the plan for integrated day activities. The actual plan is reviewed in a different section of this report. The sub-committee developed the definition of integrated day activities using information form other states and national experts. They developed a comprehensive definition and sought stakeholder input to which they responded and made revisions to the definition.

6. System Redesign: The redesign of the HCBS Waivers continues. There is a separate Waiver Redesign Committee and also a separate group that is part of the ODEP Vision Quest. The SELN members who were interviewed expressed concern that they were not asked formally for input into the waiver redesign of employment services and were not included as members of the Vision Quest Group. There is some overlap of membership so there is some communication to the SELN group, but it is not formal. Members are confused as to why the Vision Quest work with ODEP wasn't done as part of the SELN. I recommend that the SELN be the leading stakeholder group for all activities and initiatives that are employment related and that include the input of outside groups. Either the SELN should coordinate any of these employment initiatives or the SELN Members should have the chance to represent the SELN on any other employment work groups, provide formal feedback to the SELN, and seek their to share with these other committees and work groups.

Conclusion and Recommendation: The DBHDS continues to meet the Settlement Agreement requirements to maintain the SELN, but is not in overall compliance with *III.C.7.b.* It does not comply with the requirements to share employment as the first day service option using a person-centered process nor is it yet holding the CSBs accountable for the related requirements in the CSB Performance Contract. It is positive that the DBHDS is strengthening the requirements of the CSBs to offer employment first to participants but it needs to demonstrate that it is holding them accountable to be fully compliant.
The DBHDS should continue to work collaboratively with the SELN, implement the new by-laws and guidance for appointing the SELN members, and include them in a more meaningful way in the review of reaching the employment targets and other employment initiatives. DBHDS participated with ODEP in a Vision Quest process this year. This process was not coordinated with the activities of the SELN but addresses many of the same issues before the SELN. It provided a summary of strengths, challenges, threats and opportunities for Virginia. The summary provides information and analysis that can serve as another guide for ongoing employment improvement activities in Virginia. I recommend that the Vision Quest insights be shared with the SELN and the recommendations be considered for adoption by DBHDS.

VIII. Review of the Regional Quality Councils

Section III.C.7.c- the Regional Quality Councils (RQC), described in V.D.5 shall review data regarding the extent to which the targets identified in Section Iii.C.7.b.i.B.2 above are being met. These data shall be provided quarterly…. Regional Quality Councils shall consult with those providers with the SELN regarding the need to take additional measures to further enhance these services.

Section III.C.7.d - the Regional Quality Councils shall annually review the targets set pursuant to Section III.C.7.b.i.B.2 above and shall work with providers and the SELN in determining whether the targets should be adjusted upward.

The DBHDS shared the draft minutes of the five RQC meetings that were held in June and July 2014. DBHDS presented the employment data through the second quarter of FY14 not the data from the third quarter. The annual target was set for the end of that quarter. There was no substantive discussion of the targets at any of the RQC meetings and there is no evidence that the RQCs consulted with the SELN or providers. The DBHDS did not share minutes of any other meetings of the RQCs

Conclusions and Recommendations: The DBHDS is not in compliance with *Sections III.C.7.c or III.C.7.d.* The DBHDS should insure the RQCs meet quarterly and should share all current employment data regarding the employment targets. The RQCs should consult with the SELN and employment providers and discuss the DBHDS' progress toward meeting the employment targets.

IX. SUMMARY

DBHDS remains in compliance with Sections:
III.C.7.b.i.A, III.C.7.b.i.B. 1. a, d, and e

DBHDS is not in compliance with Sections:
III.C.7.a, III.C.7.b, III.C.7.b.i. IIIC.7.b.i.B.1b and c, III.C.7.i.B.2.a, b, III.C.7.c, III.c.7.d

It is troubling that DBHDS continues to be unable to accurately report data o a variety of important data elements, has not made progress on being able to offer integrated day activities to individuals in the target population or meaningfully implemented its employment first policy. The intentions of the DBHDS leadership are positive but the bureaucracy, lack of data, and service definitions and rates that cannot be significantly improved until the new waiver is approved by CMS and implemented, slows progress. The Commonwealth's efforts to redesign the waivers are positive and necessary. However, progress still needs to be made in the intervening period for the Settlement Agreement to be implemented. I recommend that the Independent Reviewer consider if immediate action needs to be required of DBHDS by the Court to:

Implement a sustainable data collection and reporting system operated by DBHDS that provides accurate information about newly enrolled individuals, the length of time

individuals are employed, the wages they earn and that can distinguish information about individuals with ID and DD.

Develop and implement a detailed plan as to meet its employment target for FY15.
Finalize the implementation plan for Integrated Day Activities and provide these activities to some number of individuals using state funding until the new waiver is available.
Develop and implement outreach to individuals with DD and their families.

APPENDIX D

HOUSING PLAN/COMMUNITY LIVING OPTIONS

By: Patrick Rafter

MEMORANDUM

DATE: NOVEMBER 5, 2014 DRAFT 2
TO: DONALD FLETCHER, INDEPENDENT REVIEWER/VIRGINIA
FROM: PATRICK RAFTER, PRESIDENT/CEO
RE: REVIEW OF THE COMMONWEALTH'S HOUSING PLAN

As a follow up to my visit of approximately one year ago, you requested that I again review the progress of Commonwealth's Housing Plan as it relates to compliance with the consent decree with the U. S. Department of Justice. During my two days on site, I met with team members responsible for implementing the plan, overseeing department heads, provider representatives, ARC leadership and affected families.

A year ago, I expressed "significant concerns about the Plan's actual capacity to develop community-based housing for the target population" based on three major areas. First, the Rental Assistance Pilot seemed ill-conceived, since it offered only temporary housing assistance to individuals requiring long term supported housing. Secondly, there were no other funded efforts beyond this contained pilot dedicated to set aside rent subsidies for members of the target population. Lastly, in order for the target group to "lay claim" to affordable (20% AMI) and accessible units as they become available in the market, there is a need for careful choreography between the LITHC developers who were being asked and incentivized to develop these units and the coordinators of service to the target group.

When I met with the Housing Plan Team during the week of October 27th, I asked as to how many individuals in the target group were provided housing as a direct result of their efforts over the past year.

The answer was two (2).

Current Revisions to the Housing Plan's Goals, Strategies & Action Items

The Commonwealth's Housing Team augmented their plan with the following items, increasing its potential of establishing the development of housing for the target group in the years and months ahead:

- ❒ A 32 unit set-aside of Housing Choices Vouchers for the target population
- ❒ Requesting local PHA's to provide set aside for target group
- ❒ On Going Rental Assistance Budget Request being submitted to the Governor
- ❒ Tax Bonds Subsidization of Development Costs Decision Brief to Governor.
- ❒ HUD 811 Application submitted
- ❒ Incentives for LIHTC Developers to serve the target population.

However, the Commonwealth's glacial implementation pace over the last year needs to be rectified.

Essential Missing Elements

The third anniversary of the signing of the consent decree is approaching. It is a reasonable expectation that by now, the housing plan would have progressed from initial "aspiration activities" (i.e. "encouraging" PHAs, "applying" for Federal Grants, "submitting briefs" to the Governor's office etc.) to funded and operational processes producing housing units for the target population. Gubernatorial transitions often result in a loss of traction for cross agency activities and may well have had a contributory effect to housing plan production of deliverables. Nonetheless, the transition from "aspirational" to "operational" is long overdue.

I recommend that the *Goal/Strategies/Action Items* section of the housing plan be revised to reflect quantitative measures. Updates of the report should clearly reflect projected numbers of the target class who will be moving into their own homes and apartments on a quarterly basis. In comparison, updates should note the actual numbers of target group members who moved into their own homes and apartments. Future reporting should also clearly identify which activities are actually producing the most housing for the target group.

I also recommend that a "customer feedback" system be put into place. This system should be initiated once target group members begin moving into their own housing. Customer feedback received should then be used to direct mid-course adjustments to the housing plan.

Finally, handled appropriately and diligently, this could be an incredibly empowering and exciting time for people with intellectual and developmental disabilities and their families in Virginia. With the separation of housing and supports, and the introduction of neighborhood based housing options, there is the possibility of significantly advancing the support system for people with disabilities.

I am happy to make myself available to Housing Team members to discuss my observations.

APPENDIX E

LICENSING, CASE MANAGEMENT AND INVESTIGATIONS REQUIREMENTS

By: Ric Zaharia Ph.D.

Report to the Independent Reviewer
United States v. Commonwealth of Virginia

Licensing, Case Management & Investigation Requirements

By

Ric Zaharia, Ph.D., FAAIDD
Consortium on Innovative Practices

October 24, 2014

Executive Summary

The Independent Reviewer for the *US v Commonwealth of Virginia* Settlement Agreement requested a follow-up review of the Licensing and Case Management requirements of the Agreement and a new review of Investigations of Abuse and Neglect requirements. This review was based on onsite interviews, document reviews, and telephone interviews and was conducted to assess key indicators and progress towards compliance.

DBHDS licensing rules (12VAC 35-105-1240) regard the Office of Licensing Services (OLS) as the compliance mechanism for Community Service Board (CSB) case management performance under their contracts with the Commonwealth. Monitoring case management performance has been expanded to include a) Quality Management staff at DBHDS (Department of Behavioral Health and Developmental Services) conducting performance improvement activities and b) case management expectations added to the DBHDS Internal Auditor's periodic Operational Review of CSBs.

Investigation of alleged or suspected abuse or neglect and other serious incidents are based in the CHRIS (Comprehensive Human Rights Information System), an electronic reporting system monitored by the Office of Human Rights (OHR). Incidents are typically entered by providers and are investigated by local OHR investigators, OLS investigators, or jointly by staffs of both offices, depending on the severity of the incident.

The Compliance Table on the next page summarizes the assessment of compliance described in the narrative report below. This review assessed fifteen (15) requirements in the Agreement. Seven (7) of the fifteen (15) are in compliance. For eight (8) requirements the progress made by the Commonwealth toward compliance has not been sufficient to achieve compliance. Recommendations are made on approaches to achieve compliance. Suggestions for improvement are offered for consideration.

DBHDS efforts to achieve compliance are continuing. Workload ratios for newer case managers appear to be lower than for more experienced case managers. This is positive in that it acknowledges the complexity of the role and the learning of the role. The vulnerability of the individuals served by DBHDS and the exposure of the system to the negative impacts of providers who repeatedly fail to meet performance expectations or correction plans continue due to the inability of OLS to deliver a wider variety of negative consequences without Attorney General (OAG) support. The revocation of the license of one poor performing provider has been deferred awaiting OAG endorsement of OLS process proposals.

Compliance Table

Settlement Agreement Section	Settlement Agreement Language	Compliance	Page
III.C.5.a Case Management	*The Commonwealth shall ensure that individuals receiving HCBS waiver services under this Agreement receive case management.*	Compliance	11
III.C.5.b Case Management	*For the purposes of this Agreement, case management shall mean…*	Assessed through Individual Service Reviews	N.A.
III.C.5.c Case Management	*Case management shall be provided to all individuals receiving HCBS waiver services under this Agreement by case managers who are not directly providing such services to the individual or ….. the provision of such services.*	Non-Compliance	11
III.C.5.d Case Management	*The Commonwealth shall establish a mechanism to monitor compliance with performance standards.*	Non- Compliance	5
V.C.3 Abuse and Neglect Investigations	*The Commonwealth shall have and implement a process to investigate reports of suspected or alleged abuse, neglect, critical incidents, or deaths and identify remediation steps taken. The Commonwealth shall be required to implement the process for investigation and remediation ……in effect on the effective date of this Agreement, and shall verify the implementation of corrective action plans required under these Rules and Regulations.*	Non-Compliance	17
V.C.6 Abuse and Neglect Investigations	*If the Training Center, CSBs, or other community provider fails to report harms and implement corrective actions, the Commonwealth shall take appropriate action with the provider pursuant to the DBHDS Human Rights Regulations…*	Non-Compliance	17
V.F.1 Case Management	*For individuals receiving case management services pursuant to this Agreement, the individual's case manager shall meet with the individual face-to-face on a regular basis and shall conduct regular visits to the individual's residence, as dictated by the individual's needs.*	Compliance	13
V.F.2 Case Management	*At these face to face meetings, the case manager shall…*	Assessed through Individual Service Reviews	N.A.
V.F.3 Case Management	*Within 12 months of the effective date of this Agreement, the individual's case manager shall meet with the individual face-to-face at least every 30 days, and at least one such visit every two months must be in the individual's place of residence.*	Compliance	13
V.F.4 Case Management	*Within 12 months from the effective date of this Agreement, the Commonwealth shall establish a mechanism to collect reliable data from the case managers on the number, type, and frequency of case manager contacts with the individual.*	Non-Compliance	13
V.F.5 Observation & Assessment	*Within 24 months from the date of this Agreement, key indicators from the case manager's face-to-face visits with the individual, and the case manager's observations and assessments, shall be reported to the Commonwealth for its review and assessment of data. Reported key indicators shall capture information regarding both positive and negative outcomes for both health and safety and community integration, and will be selected from the relevant domains listed in Section V.D.3 above.*	Non-Compliance	14
V.F.6 Training	*The Commonwealth shall develop a statewide core competency-based training curriculum for case managers within 12 months of the effective date of this Agreement. This training shall be built on the principles of self-determination and person-centeredness.*	Compliance	15
V.G.1 Licensing	*The Commonwealth shall conduct regular, unannounced licensing inspections of community providers serving individuals receiving services under this Agreement.*	Compliance	8
V.G.2 Licensing	*Within 12 months of the effective date of this Agreement, the Commonwealth shall have and implement a process to conduct more frequent licensure inspections of community providers serving individuals under this Agreement.*	Compliance	8
V.G.3 Licensing	*Within 12 months of the effective date of this Agreement, the Commonwealth shall ensure that the licensure process assesses the adequacy of the individualized supports and services provided to persons receiving services under this Agreement in each of the domains listed in Section V.D.3 above and that these data and assessments are reported to DBHDS. ???*	Non-Compliance	8
Section IX.C	*requires that there be "…sufficient records to document that the requirements of the Agreement are being properly implemented…"*	Non-Compliance	5

Licensing

Case Management Performance

Settlement Requirement:
III.C.5.d
5. Case Management
d. The Commonwealth shall establish a mechanism to monitor compliance with performance standards.

Review Methodology

- Interviewed Les Saltzberg and Dee Keenan.
- Reviewed OLS Office Protocol (8/2014 version), OLS internal operating procedures.
- Reviewed nine (9) records of individuals receiving case management services from one CSB with no case management violations.
- Interviewed ID director, case management supervisor, case manager in one CSB with no recent OLS violations.
- Reviewed frequency analysis for licensing citations across CSBs and providers.
- Reviewed DBHDS *Quality Management Plan* (7/25/2014 draft).
- Reviewed *Clinical/ Case Management Review* (9/12/2014 draft).
- Reviewed *Supports Efficiency Checklist* (undated) for 'whole person reviews' by OLS.

Findings

Licensing regulations (12VAC35-105-10 to 105 1410) do not align specifically as to the case management expectations detailed in the Agreement (i.e. regularized face to face meetings with the individual being served, enhanced visit frequency, identifying risks to the individual, offering choice among providers, assembling professionals and non-professionals who provide supports, identifying risks). Licensing checklists do not align with these same specific requirements of the Agreement.

The draft DBHDS Quality Management Plan calls for a) 'whole person reviews' during which Licensing Specialists will draw a sample from case management records, will review documentation and will observe the *in situ* delivery of services at the provider locations, b) the introduction of a *Supports Efficiency Checklist* for Licensing Specialists to use when reviewing case management services, c) the initiation of a DBHDS quality improvement team upon the "triggering" of selected problems (e.g. lack of follow-up on health issues, inadequate support plans, etc.; see *Clinical/Case Management Review*) by Licensing reviews, and d) the refocus of DBHDS Internal Auditor's Operational Reviews of five CSBs annually to include case management. These changes have been initiated. The effectiveness of these additional quality management strategies for monitoring and improving case management performance will have to be determined.

The majority of case management licensing reviews examined in an earlier sample (see report dated 4/28/14 to the Independent Reviewer, *Licensing Requirements of the Settlement*

Agreement), resulted in a "No Violations" determination for 12 of 19 CSBs. The implication is that in a review of 120 case management records out of 190, no documentation deficiencies were identified. This reviewer skimmed nine case management records (selected by the reviewer and staff) at one of those CSBs who had received a recent "No Violations" review, and identified at least one deficiency that warranted a citation by OLS. More thorough case management reviews appear to be needed.

OLS does not regularly compile the results of licensing reviews into a report on trends related to compliance patterns across CSBs. However, recent OLS analyses of citation frequencies has suggested a methodology for informing trend reports, that, although crude initially, could result in additional quality improvement studies that encourage additional initiatives, alerts and system guidance.

OLS sampling for case management remains at 10 cases, which is not an adequate sample for CSBs that serve large numbers of individuals.

Conclusion

Although the Department's quality management planning indicates progress, and more is reflected below in the Case Management section, DBHDS is not currently in compliance with the requirements of III.C.5.d, a mechanism to monitor CSB compliance with performance standards. Section IX.C requires that there be "…sufficient records to document that the requirements of the Agreement are being properly implemented…"

Recommendations to Achieve Full Compliance

OLS should create a supplement to the case management checklist that operationalizes the expectations of the Agreement. The *Supports Efficiency Checklist* has promise as a metric for case management performance in the key service domains. This supplement should be outcome focused and specifically include samples of regularized face to face meetings with the individual being served, enhanced visit frequency, offering choice among providers, assembling professionals and non-professionals who provide supports, and identifying risks to the individual.

The proposed revised OLS review process, which requires Licensing Specialists to assess case management services received by the individual while they are examining services provided to the individual at the provider level, looks promising. It needs to be operationalized in the OLS Office Protocol, to identify the desired outcomes of the process, and revised after test runs. Similarly, the follow-up visits to "triggered" case management reviews by Quality Management staff will need to be field tested and assessed for the value they add.

At least annually OLS should compile a trend report on licensing results for case management. Detecting and reporting patterns and frequencies in the results of licensing reviews across CSBs ensures that needed system improvements are discovered and that corrective actions can be planned and implemented. The database is accessible to OLS to inform these reports.

DBHDS should secure the services of a statistician to identify the statistically minimum sample size OLS needs to validate the findings of a CSB case management review.

Provider Licensing

Settlement Requirement:
V.G.1-3
G. Licensing
1. The Commonwealth shall conduct regular, unannounced licensing inspections of community providers serving individuals receiving services under this Agreement.
2. Within 12 months of the effective date of this Agreement, the Commonwealth shall have and implement a process to conduct more frequent licensure inspections of community providers serving individuals under this Agreement, including:
a. Providers who have a conditional or provisional license;
b. Providers who serve individuals with intensive medical and behavioral needs as defined by the SIS category representing the highest level of risk to individuals;
c. Providers who serve individuals who have an interruption of service greater than 30 days;
d. Providers who serve individuals who encounter the crisis system for a serious crisis or for multiple less serious crises within a three-month period;
e. Providers who serve individuals who have transitioned from a Training Center within the previous 12 months; and
f. Providers who serve individuals in congregate settings of 5 or more individuals.
3. Within 12 months of the effective date of this Agreement, the Commonwealth shall ensure that the licensure process assesses the adequacy of the individualized supports and services provided to persons receiving services under this Agreement in each of the domains listed in Section V.D.3 above and that these data and assessments are reported to DBHDS.

Review Methodology

- Reviewed *Guidance for Selected Licensing Regulations* (9/9/2014).
- Interviewed two provider representatives on the Licensing Stakeholders Workgroup.
- Reviewed licensure survey reports with corrective action plans and chronologies for five (5) agencies on provisional status.
- Reviewed available reports for licensing results across providers ('citation frequency count').
- Reviewed *Supports Efficiency Checklist* (undated)
- Reviewed new DBHDS website.
- Reviewed 8/2014 revision of *OLS Office Protocol*.

Findings

Licensing regulations (12VAC35-105-10 to 105 1410) align generally with the expectations in the Agreement. Licensing checklists align with the Licensing regulations in most areas except for the Services and Supports area of the regulations, which are the heart of the Agreement (Section V.D.3). This gap leaves assessment up to individual Licensing Specialist discretion and contributes to reliability problems in interpretation. The *Supports Efficiency Checklist* is built around four areas (Health & Safety, Access & Engagement, Community Integration, and Habilitation) and includes guidelines and examples for the assessment of the goals and outcomes in an individual's IPP at the case management and provider level.

The 'whole person review' process should generate metrics to establish congruence in expectations and performance between case management and providers. At the time of this visit training in the changes for Licensing Specialists had been scheduled. These changes show good potential for addressing the issue of Services and Supports in the regulations but will need to be assessed for their success at measuring these regulatory expectations once a database of surveys is available.

As previously reported (see report dated 4/28/14 to the Independent Reviewer, *Licensing Requirements of the Settlement Agreement*), provider feedback suggests continuing confusion at the agency level as to how a variety of items are interpreted by Licensing Specialists. The Licensing Stakeholders Workgroup was formed to address this issue. It has been working on clarifying current regulations, in order to address provider concerns and to potentially increase reliability among Licensing Specialists. Their recent work product (*Guidance for Selected Licensing Regulations*) appears to be a good first attempt to address this issue.

OLS sampling for providers has been modified in the Office Protocol 8/2014 revision to: "*10 or 10%, whichever is less with a minimum of 2".* Previous versions of the Office Protocol directed that the licensing specialist *"reviews a representative sample (more than two)*". This change should result in sample sizes that are more valid for providers serving 100 or fewer individuals; for providers serving more than 100 individuals the improvement in sampling will be modest to negligible.

The absence of a checklist (or some other structure) for interviewing staff and individuals receiving services and accompanying assessment criteria creates the likelihood that there is variability in interpretation among Specialists.

The new website will hopefully be an improvement for the Department. The "Submit a Complaint about a Licensed Provider" link has moved. The "Home" page has a "Need Help" tab but this only locates information for the DBHDS website. The "Human Rights" tab, which can be accessed under the "Individuals and Families" tab and the "Professionals & Service Providers" tab, has a "How to File a Complaint" tab, but it is informational only and does not permit the online submission of a complaint. The submission of a complaint by a user of the system should be relatively easy. Five (5) ID providers were accurately listed on the new website as being on provisional status.

OLS does not regularly compile the results of licensing reviews into a report on trends related to compliance patterns across providers. However, recent OLS analyses ('citation frequency count') suggest a methodology for the reporting of trend reports that will inform quality improvement initiatives, alerts and system guidance.

DBHDS has available sufficient authority in statute to enforce its regulations, but it never uses some of these authorities and only rarely uses others in a system of 844 service providers. These tools include mandatory training, fines up to $500 per violation, provisional licensing, revocation, summary suspension in emergencies, probation, reduced

licensed capacity, admission freeze, and funds withholding (Va. Code. §37.2-418 & 419). OLS reports that it has developed a proposed process for exercising increased use of these enforcement tools. However, approval from the Office of the Attorney General has not occurred, preventing OLS from implementing enhanced enforcement efforts. An OLS decision to revoke the license of at least one poorly performing ID service provider has been deferred, pending receipt of this approval. The exposure of the individuals served and the Commonwealth is self-evident.

Conclusions

DBHDS is in compliance with the requirements of V.G.1 and V.G.2.

DBHDS is not currently in compliance with the requirements of Section V.G.3. DBHDS does not have evidence at the policy level that OLS is producing reliable licensing data that would allow it to identify systemic patterns of compliance problems with the Agreement, including its "data and assessments" across the eight (8) domains at Section V.D.3. The absence of a Licensing tool/checklist for the Services and Supports section of the regulations and the absence of a structured approach to staff and individual interviews indicates policy level activity that needs to be completed.

Recommendations to Achieve Full Compliance

OLS should fulfill the requirement of systemic analysis of the "adequacy of individualized supports and services" by compiling regularly, at least annually, a trend report on licensing results for ID providers of services. Detecting and reporting patterns and frequencies in the results of licensing reviews across agencies and services not only ensure system improvements are discovered, but it will also allow for a continuing source for the identification of needed guidance instructions, alerts, trainings, etc.

Implementation of an assessment and monitoring tool that all Licensing Specialists use to review providers in the Services and Supports area will also improve the reliability and consistency of OLS assessments and consequently the data available to evaluate trends and patterns. The *Supports Efficiency Checklist* shows promise in this regard.

The Licensing Stakeholders Workgroup should continue its work to update regulations, in order to formalize the requirements of the Agreement in the regulations.

The Licensing Stakeholders Workgroup (or some similar entity) should continue its work on clarifying regulations that providers report are still confusing. The recently finalized *Guidance for Selected Licensing Regulations* addressed nine selected regulations, which does not cover all regulations that need clarification.

DBHDS should approach the Attorney General and request a target date for approval of the proposed OLS enhanced enforcement process.

OLS should evaluate other non-statutory interventions to deal with providers who are not performing well. For example, requiring a provider to contract with a non-agency

consultant, above and beyond Community Resource Consultants, to support the agency's successful implementation of corrective action plans or requiring a provider on provisional status to align/partner with an experienced provider who has a good track record of services and licensing reviews.

DBHDS should secure the services of a statistician to identify the statistically minimum sample size OLS needs to validate the findings of a provider review. Sampling size is critical in order to ensure fairness in application of the rules across providers, to establish comparability when aggregating licensing data for trend reporting, and to provide a case for the Commonwealth that can be defended when findings are appealed to administrative hearing officers, civil courts, etc.

Suggestions for Departmental Consideration

OLS might consider a formal, annual inter-rater reliability check for each Licensing Specialist as part of their personnel performance evaluation. This may inspire increased confidence among providers who are skeptical about the "fair" application of the regulations.

DBHDS might consider creating a complaint tab on the "Home" page that permits the electronic submission of a complaint about services.

Case Management

Case Management Service

Settlement Requirement*:*

III.C.5.a-c

5. Case Management

a. The Commonwealth shall ensure that individuals receiving HCBS waiver services under this Agreement receive case management.

b. For the purposes of this agreement, case management shall mean:

i. Assembling professionals and nonprofessionals who provide individualized supports, as well as the individual being served and other persons important to the individual being served, who, through their combined expertise and involvement, develop Individual Support Plans ("ISP") that are individualized, person-centered, and meet the individual's needs;

ii. Assisting the individual to gain access to needed medical, social, education, transportation, housing, nutritional, therapeutic, behavioral, psychiatric, nursing, personal care, respite, and other services identified in the ISP; and

iii. Monitoring the ISP to make timely additional referrals, service changes, and amendments to the plans as needed.

c. Case management shall be provided to all individuals receiving HCBS waiver services under this Agreement by case managers who are not directly providing such services to the individual or supervising the provision of such services. The Commonwealth shall include a provision in the Community Services Board ("CSB") Performance Contract that requires CSB case managers to give individuals a choice service providers from which the individual may receive approved waiver services and to present practicable options of service providers based on the preferences of the individual, including both CSB and non-CSB providers.

Review Methodology:

- Reviewed May Data Dashboard report, which the Department is using to assess system progress.
- Interviewed Dee Keenan and Kathy Drumwright re CSB action plans regarding increasing compliance for CSBs reporting less than 90% compliance.
- Reviewed Keenan/Drumwright matrix of CSB input per Health Planning Region visits (8/26/14).
- Reviewed DBHDS *Choice Protocol: Offering and Resolving Issues Regarding Choice in Virginia's Intellectual Disability and Day Support Home and Community Based Waivers* (1/28/11).
- Reviewed *Guidance Document for Additional Case Management Elements (undated).*
- Interviewed at one CSB: ID director, one case management supervisor, and one case manager.
- Interviewed by phone ten (10) case managers hired during the past year.
- Interviewed five (5) parents/authorized representatives (three ID, two DD) about satisfaction with case management services.
- Interviewed Dawn Travers, DDD Waiver Manager, regarding Waiver Redesign planning.

Findings

The Data Dashboard continues to have viability as an accountability tool for the tracking of the delivery of case management services but not the quality of case management services. The Dashboard's effectiveness is now centered on the accuracy of data entry at the local CSB level.

The DBHDS "Choice Protocol" is a good example of shifting the system to a person-centered system. However, distribution of the *Choice Protocol* is optional and at the discretion of the case manager. Ten (10) recently hired case managers, selected by the Department from across the five Health Planning Regions, were asked if they had been involved in a choice situation. Most case managers interviewed for this report have experienced a change in provider request and report having followed the key themes of the *Choice Protocol*.

There is apparently no formalized mechanism for a consumer/authorized representative to choose or change among available CSB case managers, who are providers of service. The *Choice Protocol* does not address choosing or changing a case manager, which is an emerging best practice nationally. Planned changes in the Virginia HCBS Waiver may address this.

The updated DBHDS website 'CSB Provider Search' places this tab on the Home page for DBHDS, which is positive. However, its use continues to be required only for Training Center placements. In addition, the Search tab is not user friendly (for example, the font size for selecting search criteria is some of the smallest font on the page) and when several

searches were conducted for several rural or suburban areas, as a parent or individual is most likely to do, there were no licensed listed providers doing services in that area.

Five (5) parent/authorized representatives, selected by the Arc of Virginia (three ID Waiver and two DD Waiver) were interviewed with regard to their satisfaction with case management services. Although this was an inadequate sample (representative of only three CSBs and two case management agencies) these five interviewees rated the quality of their case management an average of 8.7 on a 1-10 scale, where ten (10) was Very Helpful, Very Responsive. This sample should be increased in size in future reviews.

Conclusions

DBHDS is in compliance with the requirements of III.C.5.a.

Section III.C.5.b. is assessed as part of the Individual Service Review study

DBHDS is not currently in compliance with the requirements of III.C.5.c. DBHDS has not yet implemented a mechanism to ensure individuals/families are offered practicable options among available providers, conflict free case management, or the option of changing case managers.

Recommendations to achieve compliance:

Publish the *Choice Protocol* as Departmental/Division policy. Towards the theme of choice, DBHDS should revise the *Choice Protocol* to establish a formal mechanism so that consumers/family members can select or can change a CSB case manager.

Refine the link to the 'Provider Search' to make it more user friendly and accessible to consumers, family members, authorized representatives, and case managers. Assess whether the provider search only goes to headquarters or main offices of providers, rather than all their specific locations, which is what most consumers/family members will be seeking; if this is not the case, it will suggest serious gaps in the system of services and the need for a Network Development Plan.

Case Management Practice

Settlement Requirement:

V.F.1-4

F. Case Management

1. For individuals receiving case management services pursuant to this Agreement, the individual's case manager shall meet with the individual face-to-face on a regular basis and shall conduct regular visits to the individual's residence, as dictated by the individual's needs.

2. [See below]

3. Within 12 months of the effective date of this Agreement, the individual's case manager shall meet with the individual face-to-face at least every 30 days, and at least one such visit every two months must be in the individual's place of residence, for any individuals who:

a. Receive services from providers having conditional or provisional licenses;

b. Have more intensive behavioral or medical needs as defined by the Supports Intensity Scale ("SIS") category representing the highest level of risk to individuals;
c. Have an interruption of service greater than 30 days;
d. Encounter the crisis system for a serious crisis or for multiple less serious crises within a three-month period;
e. Have transitioned from a Training Center within the previous 12 months; or
f. Reside in congregate settings of 5 or more individuals.
4. Within 12 months from the effective date of this Agreement, the Commonwealth shall establish a mechanism to collect reliable data from the case managers on the number, type, and frequency of case manager contacts with the individual.

Review Methodology:

- Reviewed May Data Dashboard report
- Reviewed *DBHDS Quality Management Plan* (7/25/14 draft).
- Interviewed Dee Keenan re CSB improvement plans.
- Reviewed Keenan/Drumwright matrix report, *2014 ID Case Management CSB Visits (*8/26/2014).
- Reviewed Guidance document entitled *Enhanced Case Management Criteria* (4/2014 and *Case Management Operational Guidelines (11/30/12).*

Findings

The Data Dashboard does not yet reliably reflect CSB performance for the Settlement Agreement requirement of "*a mechanism to collect reliable data from the case managers on the number, type, and frequency of case manager contacts with the individual*". Poor data entry at the CSB level has been identified as the source of the remaining reliability problems in the Dashboard. However, beyond publication of the dashboard and conversations with individual CSBs, there do not appear to be strategies that would ensure CSBs improve their data entry processes or address poor performance outcomes.

The Guidance document entitled *Enhanced Case Management Criteria* appears to operationalize successfully the requirements for enhanced visits.

The *Case Management Operational Guideline* presents the steps a case manager should follow in the event there is a problem, deficiency or discrepancy between the ISP and the ongoing provision of supports and services. The hierarchy the case manager should follow is logical and appropriate. However, missing from the hierarchy is an early step in the process wherein the case manager would discuss the problem, deficiency or discrepancy with CSB supervisors/managers or others in the DBHDS chain of command to achieve resolution. Although this may be assumed to occur, by its inclusion it ensures the CSB/DBHDS is responsible for resolving implementation difficulties.

Conclusions

DBHDS appears to be in compliance with the requirements of V.F.1 and V.F. 3 regarding enhanced case management visits.

DBHDS is not currently in compliance with the requirements of V.F.4. DBHDS does not yet have evidence at the policy level that it has reliable mechanism/s to assess CSB compliance with their performance standards relative to case manager contacts.

Recommendations to achieve compliance:
DBHDS should require that CSB's achieving less than 50% on all Data Dashboard measures provide a 'data entry improvement plan'; CSBs achieving less than 90% should provide a 'case management performance improvement plan.'

Suggestions for Departmental consideration:
The Drumwright/Keenan CSB input matrix review creates a rich information pool for DBHDS and should be an annual event.

The *Case Management Operational Guideline* should be revised to add an early step in the process wherein the case manager would discuss the problem, deficiency or discrepancy for resolution with a supervisor or other manager at the CSB, as well as seek solutions up the DBHDS chain of command.

Observation & Assessment

Settlement Requirement:
V.F.2 & 5

2. At these face-to-face meetings, the case manager shall: observe the individual and the individual's environment to assess for previously unidentified risks, injuries needs, or other changes in status; assess the status of previously identified risks, injuries, needs, or other change in status; assess whether the individual's support plan is being implemented appropriately and remains appropriate for the individual; and ascertain whether supports and services are being implemented consistent with the individual's strengths and preferences and in the most integrated setting appropriate to the individual's needs. If any of these observations or assessments identifies an unidentified or inadequately addressed risk, injury, need, or change in status; a deficiency in the individual's support plan or its implementation; or a discrepancy between the implementation of supports and services and the individual's strengths and preferences, then the case manager shall report and document the issue, convene the individual's service planning team to address it, and document its resolution.

5. Within 24 months from the date of this Agreement, key indicators from the case manager's face-to-face visits with the individual, and the case manager's observations and assessments, shall be reported to the Commonwealth for its review and assessment of data. Reported key indicators shall capture information regarding both positive and negative outcomes for both health and safety and community integration, and will be selected from the relevant domains listed in Section V.D.3 above.

Review Methodology:
- Interviewed Dee Keenan regarding Data Dashboard.
- Reviewed May Data Dashboard report.
- Reviewed *Guidance Document for Additional Case Management Elements* (undated).
- Reviewed *Enhanced Case Management Criteria* (4/2014).
- Reviewed *Support Coordination ECM Onsite Report* (10/18/2013).

Findings

The Settlement objective to measure the content of the face-to-face visits was scheduled for accomplishment in March of 2014. The key indicators settled on by DBHDS (Health & Well Being, Community Inclusion, Choice and Self-Determination, Living Arrangement Stability, and Day Activity Stability) show promise. However, these measures do not address specific elements of the face-to-face visits, such as when to convene the team, how to evaluate significant implementation problems, assessing risk when there are status changes, etc. If not addressed through the *Additional Case Management*-revised Data Dashboard reports, these elements will need to be measured elsewhere.

The halo effect of case managers skewing reports for the Data Dashboard toward the positive is a serious issue. As yet there are no plans in place to correct for this factor.

The incident reporting system (CHRIS) has been proposed as the negative outcome indicator. This may be appropriate, although CHRIS does not necessarily capture process events, such as precipitous discharge by a provider, poorly trained staff, delayed services, etc.

Conclusions

DBHDS is not yet in compliance with the requirements of V.F.5 regarding the capture of information regarding outcomes discovered at case management visits.

Section V.F.2 is assessed elsewhere in the Individual Service Review study

Recommendations to achieve compliance:

DBHDS should develop methods to show validity in the reported data from case managers. This may involve sampling individual records to verify agreement between what is documented and what is reported. This could be delegated to case management supervisors.

DBHDS should create strategies that ensure the analytics for poor-performing CSBs are being used to cause improvements at the CSB case management level.

Specific elements of the face-to-face visits, such as when to convene the team, how to evaluate significant implementation problems, assessing risk when there are status changes, etc. will need to be assessed or measured. The *Support Coordination ECM Onsite Report* appears to have potential for addressing this, but it is optional and not required of the field.

Suggestions for Departmental consideration:

DBHDS should consider dialogues with CSB managers about a) the integrity of the five indicators now reported in the Data Dashboard and b) the urgency of accurate Data Dashboard reports.

Training

Settlement Requirement:
V.F.6
6. The Commonwealth shall develop a statewide core competency-based training curriculum for case managers within 12 months of the effective date of this Agreement. This training shall be built on the principles of self-determination and person-centeredness.

Methodology:

- Interviewed by phone ten (10) case managers hired during the past year.
- Reviewed case manager training database.

Findings

Ten (10) recently hired case managers (nine ID, one DD), who were selected by the Department from six CSBs and one case management agency with at least one from each of the five Health Planning Regions, rated the value of the DBHDS online training as a 7.0 on a ten point scale, ("How well did the online training prepare you for the job on a scale of 1-10 with 10 being, Great?".)

As a group the interviewed case managers felt generally capable of handling their jobs, but reported discomfort in knowledge of available services, the electronic record, and in supporting individuals who are their own guardian and who have co-occurring behavioral health issues.

The Quality Management section at DBHDS can, and should, periodically track who has completed the online training. Interviews suggest that at least one of the ten case managers had taken on a caseload before completing the online training.

Conclusions

DBHDS remains in compliance with the requirements of V.F.6 in the Settlement Agreement.

Suggestions for Departmental consideration:

Revise the appropriate module in the online case management training curriculum to address choice presentations by case managers. The *Choice Protocol* provides substantive content for a curriculum modification.

Where the training module describes the development of the ISP or monitoring it for effectiveness and satisfaction, DBHDS should consider providing a link to samples of actual ISPs.

Abuse and Neglect Investigations

Settlement Requirement:
V.C.3 & 6
3. The Commonwealth shall have and implement a process to investigate reports of suspected or alleged abuse, neglect, critical incidents, or deaths and identify remediation steps taken. The Commonwealth shall be required to implement the process for investigation and remediation detailed in the Virginia DBHDS Licensing Regulations (12 VAC 35-105-160 and 12 VAC 35-105-170 in effect on the effective date of this Agreement) and the Virginia Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services ("DBHDS Human Rights Regulations" (12 VAC 35-115-50(D)(3)) in effect on the effective date of this Agreement, and shall verify the implementation of corrective action plans required under these Rules and Regulations.
6. If the Training Center, CSBs, or other community provider fails to report harms and implement corrective actions, the Commonwealth shall take appropriate action with the provider pursuant to the DBHDS Human Rights Regulations (12 VAC 35-115- 240), the DBHDS Licensing Regulations (12 VAC 35-105-170), Virginia Code Section 37.2-419 in effect on the effective date of this Agreement, and other requirements in this Agreement.

Methodology:

- Reviewed ten (10) recently completed Office of Human Rights (OHR) incident investigations from the Regions IV and V.
- Reviewed seventeen (17) completed OLS incident investigations from June 2013 through August 2014.
- Reviewed FY 2013-2014 report from OLS identifying agencies cited for Failure to Report.
- Interviewed Deb Lochart and Les Saltzberg.

Findings
OHR receives all initial reports of abuse, neglect or serious injury through CHRIS. It then triages for investigation of abuse and neglect. Suspicious, serious cases are forwarded to OLS for investigation because of their enforcement statute. OHR field investigation reports, which are reviewed at DBHDS, appear superficial and do not usually present enough information (i.e. the findings of critical facts) to justify ruling out abuse or neglect. The information may be available in the full investigation file in the field but the summary report does not contain sufficient information, so that DBHDS can quality control the conclusions of its investigators.

The review of a sample of OLS investigations suggests appropriate attention to detail and fact gathering. Investigations that reveal regulatory compliance problems evolve into corrective action plan requirements of the provider. This review of seventeen (17) investigations suggests investigators are thorough and appear to go to root causes, when there is a clear regulatory path to follow. The question of OLS enforcement actions, above and beyond corrective action plans and provisional status, remains an issue. Resolution is pending at the Office of the Attorney General.

OLS citations for 'failure to report' went to 50 ID provider agencies and 8 CSB providers during the past fiscal year. Beyond corrective action plans there have been no enforcement actions on these citations.

Conclusions

DBHDS is not in compliance with the investigational requirements at V.C.3. The superficiality of OHR reports and the absence of enhanced sanctioning efforts result in gaps in these critical protection from harm processes.

DBHDS is not in compliance with the requirements of V.C.6. The ability of the Department through OLS to sanction providers, who violate requirements and then do not correct their problems, remains a shortcoming.

Recommendations to achieve compliance:

DBHDS should use all the tools in the OLS statute to sanction providers who do not respond to corrective actions.

DBHDS should approach the Attorney General and request a target date for approval of the proposed OLS enhanced enforcement process.

OHR should require expanded narrative in their investigators' reports to provide the rationale for determining whether abuse or neglect had occurred in each specific incident.

APPENDIX F

QUALITY AND RISK MANAGEMENT

By: Maria Laurence

Report on Quality and Risk Management
in United States v. Commonwealth of Virginia

November 12, 2014

Submitted by: Maria Laurence,
Independent Consultant

INTRODUCTION

The Settlement Agreement requires the Commonwealth to develop and implement a Quality and Risk Management System that will "identify and address risks of harm; ensure the sufficiency, accessibility, and quality of services to meet individuals' needs in integrated settings; and collect and evaluate data to identify and respond to trends to ensure continuous quality improvement." (V.A-I.)

This is the second Report prepared, at the request of the Independent Reviewer, to assess the Commonwealth's progress in meeting these terms of the Settlement Agreement. (The first Report was issued on October 22, 2013; references are made to this previous report, as relevant to recent findings.)

This Report is focused on seven discrete areas of Quality and Risk Management:

1) Risk triggers and thresholds;
2) The web-based incident reporting system and reporting protocol;
3) Investigation of allegations and critical incidents;
4) Data to assess and improve quality;
5) Providers;
6) Statewide Core Competency-Based Training Curriculum; and
7) Quality Service Reviews.

The assistance given throughout the review period by the Acting Assistant Commissioner of Quality Management and Development is greatly appreciated. In addition, a number of other Commonwealth staff, as well as a provider representative, participated in interviews and provided documentation. Their candid assessments of the progress made, as well as the challenges ahead, were very helpful.

METHODOLOGY

The fact-finding for this Report was conducted through a combination of interviews and document review. Interviews were held with staff from the Department of Behavioral Health and Developmental Services (DBHDS) and the Department of Medical Assistance Services (DMAS) as well as with representatives from the provider community and an advocacy organization. Discussions also were held with other consultants engaged by the Independent Reviewer to conduct reviews of employment, case management and licensing services. (Appendix B includes a list of the individuals interviewed and the documents reviewed.) Additionally, the Individual Reviews completed by the Independent Reviewer and his consultants provided information about the reporting of allegations of abuse and neglect. It is important to note that many of the Commonwealth's initiatives in relation to the Quality and Risk Management System were in the process of development and implementation. As a result, a number of draft documents formed the basis for this Report

FINDINGS AND RECOMMENDATIONS

For each of the seven areas reviewed, the language from the Settlement Agreement is provided and is then followed by a summary of the status of the Commonwealth's efforts to date. Recommendations are offered for consideration, as appropriate.

> *The Commonwealth shall require that all Training Centers, CSBs [Community Services Boards], and other community providers of residential and day services implement risk management processes, including establishment of uniform risk triggers and thresholds, that enable them to adequately address harms and risk of harm. Harm includes any physical injury, whether caused by abuse, neglect, or accidental causes.*

The Independent Reviewer's third report recommended:

- The required list of triggers and thresholds must include all significant harms and risks of harm. The Commonwealth should provide a plan and timeline, by March 31, 2014, to require the reporting of all harms and risks of harm.
- The Commonwealth should continue to identify and/or develop relevant sources of reliable data to allow expansion of the list of relevant risk triggers and thresholds; it should identify mechanisms to collect additional data to allow future expansion of the list and report these to the Reviewer by March 31, 2014.

The Commonwealth continues to revise the list of triggers and thresholds. The Commonwealth submitted a draft of the Phase One Risk Triggers and Thresholds. This document identifies the domains (restraint, aggression, mortality, falls, etc.), the type of measure (individual or provider; trigger or threshold), the data element (what was being measured), the rule (criteria for when the threshold or trigger was met), the data collection status, the type of report, the report status, definitions, and follow-up actions.

The data collection status indicates whether the data collection system is under development for the community, for the Training Centers, in a test phase, and/or implemented for the community. For many of the triggers and thresholds, the draft indicates they were implemented for the community, but under development for the Training Centers.

It is positive that the Commonwealth has addressed some of the suggestions made in the Consultant's last report, including:

- Efforts have been made to ensure the risks and triggers are sensitive enough to identify those individuals with high-risk in certain areas. For example, the triggers have been modified to reflect that one incidence of aspiration pneumonia is significant and should result in immediate review to prevent the next hospitalization and/or death.
- Definitions have been added, which should assist in data reliability.
- Previously, some of the indicators made reference to changes in percentages in rates of, for example, overall medication errors or fractures. However, if a provider's rates already were too high, these indicators would not capture the fact that a risk of harm already existed and might result in further risk of harm. Since the last review, the Commonwealth has removed these references.

However, concerns continue to exist. As indicated in the Consultant's last report:

- Since the Settlement Agreement provides a fairly inclusive definition of harm (i.e., "Harm includes any physical injury, whether caused by abuse, neglect, or accidental causes)," the list includes a number of important triggers and thresholds, but other indicators of risk that are fairly typical for individuals with intellectual and/or developmental disabilities are not addressed. Some examples include, but are not limited to: serious injuries other than fractures/dislocations, infections [e.g., sepsis, MRSA], pica behavior, psychiatric hospitalizations, etc. Since the last review, the Commonwealth has added few, if any, triggers or thresholds.
- Many of the risk triggers and thresholds are dependent on harm actually occurring. Some examples include triggers related to aggressive behaviors, or falls. For both, medical attention is part of the trigger definition. As opposed to waiting for harm to occur, precursors should be identified as triggers to try to prevent harm before it occurs. (The Consultant's previous report discusses this issue in detail.) Overall, the goal of a risk trigger and threshold system should be to identify events that increase the risk of actual harm, so that steps are taken to attempt to prevent it. In fact, the Settlement Agreement requires the system to address "risk of harm" as well as actual harm.
- The triggers largely consist of bad outcomes for individuals (e.g., falls, restraint, choking, etc.). The Commonwealth should consider triggers or thresholds that identify deficits in staff skills or knowledge. Often, these are the factors that put individuals most at risk. One example would be neglect findings that illustrate consistent failures on staff's part to meet individuals' needs.
- Of note, the system being developed will only apply to licensed intellectual disability programs/facilities. Based on the draft provided, entities that would use the triggers and thresholds include providers licensed by DBHDS to provide ID/DD services or DBHDS-operated Training Centers. Examples of entities falling outside this scope are nursing homes and private homes.

At the time of the onsite visit, Commonwealth staff presented the Consultant with draft Standard Triggers and Threshold Reports. These reports provide a helpful mechanism to show when triggers and thresholds have been met on an individual and/or provider level, and include monthly and quarterly data. Such reports should be helpful to the various audiences responsible for review of trigger and threshold data (e.g., Regional Quality Councils, providers, etc.). By clearly identifying when triggers and thresholds are met for an individual or provider, such reports will be helpful in determining when the Commonwealth and/or provider needs to conduct further analysis and/or take further action.

In summary, the Commonwealth continues to make progress in developing risk triggers and thresholds, as well as in developing a report format that is user-friendly, and should assist in identifying areas requiring attention. However, significant challenges remain to develop and implement a complete list of risk triggers and thresholds. A narrow list of triggers and thresholds will continue to expose individuals to risk of harm. Without adequate triggers and thresholds, the potential for harm will likely not be caught early enough to prevent actual harm. The Commonwealth should continue to identify and/or develop relevant sources of data to allow expansion of the list of relevant risk triggers and thresholds.

The Commonwealth shall have and implement a real time, web-based incident reporting system and reporting protocol. The protocol shall require that any staff of a Training Center, CSB, or community provider aware of any suspected or alleged incident of abuse or neglect as defined by Virginia Code § 37.2-100 in effect on the effective date of this Agreement, serious injury as defined by 12 VAC 35-115-30 in effect on the effective date of this Agreement, or deaths directly report such information to the DBHDS Assistant Commissioner for Quality Improvement or his or her designee.

The web-based incident reporting system was examined in order to determine whether the Commonwealth had taken sufficient action to achieve substantial compliance by ensuring:

- Reporting by "any staff" of all suspicions of or allegations of abuse, neglect, and serious injuries, and the deaths of all individuals receiving services under this Agreement, including those individuals in DD services; and
- Direct reporting in real time by the staff who witness or first become aware of the incidents.

Based on a review of data pertaining to abuse, neglect, and exploitation allegations and confirmations, the electronic system appeared to have resulted in increased reporting. Summary data for community providers showed significant increases between the third and fourth Quarters of FY 2013 and the first Quarter of FY 2014. According to the minutes of the Regional Quality Councils, Commonwealth staff attributed these changes to increasing numbers of community providers reporting through the electronic CHRIS system.

It will continue to be important for the Commonwealth to ensure full reporting of incidents. A list of the steps the Commonwealth was taking or intended to take (e.g., ensuring providers were implementing quality improvement activities to catch non-reporting) was reviewed previously; these actions were deemed to be reasonable.

The Settlement Agreement requires that staff who become aware of allegations of abuse or neglect, serious injuries, or deaths to "directly report" them. As indicated in the last Report and confirmed through recent interviews, each Training Center, Community Services Board (CSB) and community provider agency was responsible to identify the staff that would enter information into CHRIS, as not all staff were provided access to that system. As a result, many providers had modified their business practices to collect and report information. However, based on the findings from the Independent Reviewer's most recent review of a sample of twenty-eight individuals supported by seventeen agencies, providers had not developed processes to ensure that staff with the most direct knowledge of the incident prepared an internal report and then entered it into CHRIS. As a result, at the time of this review, the staff person entering information into CHRIS was not typically the one with the most direct knowledge of the incident or allegation.

Although work was still underway to fully utilize CHRIS data to identify potential trends and to conduct further analysis, the Commonwealth had made significant progress in developing a dashboard to assist in this process. Specifically, Commonwealth staff developed a dashboard that allowed display of data related to deaths. A slightly different format was used

for serious injuries and allegations of abuse, neglect, and exploitation. The dashboards could display data for the entire Commonwealth, by Region, Community Services Board, Training Center, or residential provider agency. Day support/vocational providers were not yet captured in the dashboard but Commonwealth personnel were working to resolve this issue.

Generation of the dashboard reports began in March 2014. The reports display data in ways that should allow more in-depth analysis. The baseline benchmarks were based on last year's data, but after trends were reviewed, Commonwealth staff expected to set new targets.

Regional Quality Councils and providers were given monthly access to the dashboards. Commonwealth staff indicated that the dashboard eventually would be posted online to allow access to individuals and guardians in order to give them another source of information when selecting a provider.

In summary, problems continued to be documented with meeting the requirements for direct reporting in real time, but the Commonwealth had made progress in developing reports to make the CHRIS data useful on a statewide level and to inform the Regional Quality Councils and provider agencies.

The following recommendations, offered in the initial Report, continue to apply:

- Through their Quality Improvement systems, Training Centers, Community Services Boards, and community providers should be expected to implement mechanisms to identify incidents or allegations that should have been reported, but were not, and to report them promptly if/when they are identified. Efforts are needed to ensure <u>all</u> allegations of abuse, neglect, and exploitation, serious injuries, and deaths are reported, including for individuals in the DD Waiver system.

The Commonwealth should work with Training Centers, Community Services Boards, and provider agencies to develop mechanisms to ensure that information entered into CHRIS reflects "direct reporting" by the staff first aware of allegations of abuse or neglect, serious injuries, or deaths, and that reports are submitted in real time.

Finally, the Settlement Agreement only requires the web-based system to include reports of abuse, neglect, and exploitation, serious injuries, and deaths as defined in the Commonwealth's regulations. However, as noted elsewhere in this Report, these regulatory limitations significantly impact the Commonwealth's awareness of events and, therefore, constrain a more proactive approach to incident management. Other categories of incidents reasonably expected to be reported by provider agencies include, but are not limited to, contact with law enforcement or emergency personnel; unexpected hospitalizations; peer-to-peer aggression regardless of level of injury; community incidents that have had or have the potential to negatively impact the individual or provider; unplanned evacuations; infections reportable to the Department of Public Health; missing persons; and theft of individuals' funds or property.

The Commonwealth shall offer guidance and training to providers on proactively identifying and addressing risks of harm, conducting root cause analysis, and developing and monitoring corrective actions.

The actions taken to complete this Report were designed to: 1) obtain a status update both on the development and implementation of provider agency training regarding investigations and root cause analyses and on the guidance or training issued to providers on developing and monitoring corrective actions; and 2) determine whether the Commonwealth had implemented the recommendations from the Independent Reviewer's third report, including: a) development of standards for investigators, the investigation process and investigation reports; and b) development and implementation of a system to ensure that community providers know whether applicants for employment have been confirmed to have committed abuse, neglect, and/or exploitation.

Since the last review, Commonwealth staff revised the draft training on investigations and root cause analysis and began development of risk assessment training. It is planned to offer these trainings to community providers.

The training materials provided by DBHDS demonstrated considerable thought and effort. There were well-organized instructions in the sections explaining the process for investigations. The documents outlining the procedures for root cause analysis were clearly written and provided helpful detail.

As referenced in the previous Report, areas requiring further clarification included the detailed expectations for coordinating investigations with other investigatory agencies when a crime is suspected or evidence must be preserved without contamination.

In addition, the training materials did not reflect as broad a range of instructional techniques as needed to ensure reliability and competency in performance. For example, role playing the various interviewing techniques and protocols would be especially important as would be the critical review of samples of written documentation.

The definitions of the levels of risk require scrutiny. The risk matrix indicated that actions involving moderate-risk situations should be taken no later than the next Fiscal Year and any high-risk situations should be addressed within no more than six months. These timelines do not appear to be consistent with the urgency of actions needed in situations presenting a risk to the individuals being supported by provider agencies.

As indicated in the last report, regulations require community providers to have "trained investigators," but no standards for training, the investigation process, or investigation reports existed in the community system. At the time of this review, Commonwealth staff continue to work to develop the competency-based component of the investigation training discussed above. A consultant was hired to assist in finalizing the training for publication on the online Learning Management System (LMS). Staff estimate the training would be available by approximately November 2014. It is expected that the revised training would

require participants to apply the knowledge and skills they learned, as opposed to merely recapping the information.

In addition to the online training, Commonwealth staff recognize the need for "live" training opportunities and other methodologies for assessing the competency of staff completing the investigation training. Staff discussed some options, including opening up the investigation training offered at the Training Centers to community provider staff and/or developing a train-the-trainer process. Staff indicated that developing a certification process for investigators similar to the one used at the Training Centers is a goal that would require time.

Commonwealth staff indicated that community providers often take advantage of optional training, such as that described above. However, at the present time, community providers are not required to have staff complete the training.

The Training Centers have standards for investigations entitled "Standards for Trained Investigators." Commonwealth staff indicated the intent to share these standards with community providers as the training is rolled out. However, at the present time, community providers are not required to adhere to the standards.

The "Standards for Trained Investigators" provided a list of steps that investigators should take and the order in which some of the steps should occur, such as conducting interviews before extensively reading documents, ensuring the scene was observed, photos taken, etc. The document does not cite standards for the qualifications of investigators, such as the completion of specific training or certification. Similarly, the standards do not specifically cite expectations regarding the quality or timeliness of investigations. For example, although the standards mention the need to complete timely interviews, no specific standards were cited except a reference to "applicable rules and regulations." The document makes no reference to investigation reports. Although the document provides some important information regarding investigation practices, it is not a complete set of standards regarding the qualifications of investigators, the quality or timeliness of investigations or investigation reports.

Although, according to 12 VAC 35 105-400, providers are expected to conduct criminal background checks (i.e., criminal checks and checks of the registry of child abuse and neglect maintained by the Virginia Department of Social Services), the Commonwealth does not currently have a system or registry to allow providers to determine whether or not an applicant had substantiated allegations of abuse, neglect, and/or exploitation against a vulnerable adult. Similarly, on an annual basis, providers cannot conduct a recheck of current employees to determine if any allegations related to vulnerable adults had been confirmed over the year (e.g., in another job). As a result, a person who had committed acts of abuse, neglect, and/or exploitation could easily find employment with another provider, which places vulnerable individuals at significant risk of harm.

In summary, it is positive that the Commonwealth is developing training to address the investigation process, as well as root cause analysis. However, a number of issues should be addressed. The following recommendations are offered:

- As the DBHDS Investigations Process training and related guidelines and manual are finalized, consideration should be given to addressing the areas identified above in which the provision of additional information is recommended.
- Further training should be included in one or both training modules, or a separate training initiated, related to the development of corrective action plans and an assessment of their effectiveness.
- For both the Investigation Process training and the Root Cause Analysis training, the Commonwealth should offer classroom training, as well as online training, including the equivalent of experiential-based learning, such as role-plays and discussion in the online training.
- The current draft of the Investigations Process training module does not have a competency-based component, but DBHDS staff indicated their intent to build some competency-based components into the final training. Given the specific skills required to conduct thorough investigations and write reports that include strong bases for the findings, the final training should include specific competency-based components. These should include, but not be limited to, competencies with regard to the development of an investigation plan, securing evidence, conducting interviews, interviewing individuals with intellectual disabilities, reconciliation of evidence, and investigation report writing.
- It will be important to define standards for what constitutes a "trained investigator." If training other than the Commonwealth-developed training will be acceptable, the requirements for such training should be defined.
- The Commonwealth should develop a complete set of standards for adequate investigations and investigation reports for use by Licensing Specialists and Human Rights Advocates.
- A system should be developed and implemented to ensure that community providers do not hire staff confirmed to have perpetrated abuse, neglect, and exploitation.

1. *The Commonwealth's HCBS [Home and Community-Based Services] waivers shall operate in accordance with the Commonwealth's CMS [Centers for Medicare and Medicaid Services]-approved waiver quality improvement plan to ensure the needs of individuals enrolled in a waiver are met, that individuals have choice in all aspects of their selection of goals and supports, and that there are effective processes in place to monitor participant health and safety. The plan shall include evaluation of level of care; development and monitoring of individual service plans; assurance of qualified providers; identification, response and prevention of occurrences of abuse, neglect and exploitation; administrative oversight of all waiver functions including contracting; and financial accountability. Review of data shall occur at the local and state levels by the CBSs and DBHDS/DMAS, respectively…*
2. *The Commonwealth shall collect and analyze consistent, reliable data to improve the availability and accessibility of services for individuals in the target population and the quality of services offered to individuals receiving services under this agreement. The Commonwealth shall use data to:*
    a. *Identify trends, patterns, strengths, and problems at the individual, service-delivery, and systemic levels, including, but not limited to, quality of services, service gaps, accessibility of services, serving individuals with complex needs,*

and the discharge and transition planning process;

b. *Develop preventative, corrective, and improvement measures to address identified problems;*
c. *Track the efficacy of preventative, corrective, and improvement measures; and*
d. *Enhance outreach, education, and training.*

3. *The Commonwealth shall begin collecting and analyzing reliable data about individuals receiving services under this Agreement selected from the following areas in State Fiscal Year 2012 and will ensure reliable data is collected and analyzed from each of these areas by June 30, 2014. Multiple types of sources (e.g., providers, case managers, licensing, risk management, Quality Service Reviews) can provide data in each area, though any individual type of source need not provide data in every area:*
    a. *Safety and freedom from harm (e.g., neglect and abuse, injuries, use of seclusion or restraints, deaths, effectiveness of corrective actions, licensing violations);*
    b. *Physical, mental, and behavioral health and well being (e.g., access to medial care (including preventative care), timeliness and adequacy of interventions (particularly in response to changes in status);*
    c. *Avoiding crises (e.g., use of crisis services, admissions to emergency rooms or hospitals, admissions to Training Centers or other congregate settings, contact with criminal justice system);*
    d. *Stability (e.g., maintenance of chosen living arrangement, change in providers, work/other day program stability);*
    e. *Choice and self-determination (e.g., service plans developed through person-centered planning process, choice of services and providers, individualized goals, self-direction of services);*
    f. *Community inclusion (e.g., community activities, integrated work opportunities, integrated living options, educational opportunities, relationships with non-paid individuals);*
    g. *Access to services (e.g., waitlists, outreach efforts, identified barriers, service gaps and delays, adaptive equipment, transportation, availability of services geographically, cultural and linguistic competency); and*
    h. *Provider capacity (e.g., caseloads, training, staff turnover, provider competency)…*

5. *The Commonwealth shall implement Regional Quality Councils that shall be responsible for assessing relevant data, identifying trends, and recommending responsive actions in their respective Regions of the Commonwealth.*
    a. *The councils shall include individuals experienced in data analysis, residential and other providers, CSBs, individuals receiving services, and families, and may include other relevant stakeholders.*
    b. *Each council shall meet on a quarterly basis to share regional data, trends, and monitoring efforts and plan and recommend regional quality improvement initiatives. The work of the Regional Quality Councils shall be directed by a DBHDS quality improvement committee.*

6. *At least annually, the Commonwealth shall report publicly, through new or existing mechanisms, on the availability (including the number of people served in each type*

of service described in this Agreement) and quality of supports and services in the community and gaps in services, and shall make recommendations for improvements.

The fact-finding for this Report was designed to:

- Obtain the status of the Commonwealth's efforts to develop its Waiver Quality Improvement plan to include the specifics outlined above in V.D.1.
- Obtain updates on the Commonwealth's efforts to both identify the data to be collected as well as to actually collect valid and reliable data for the eight domains as listed above in V.D.3, a through h.
- Determine the validity of the measures and the reliability of the data (V.D.2.) as well as the status of data analyses (V.D.4).
- Obtain updates on the status of the Regional Quality Review Councils (V.D.5a. and b) and the status of assessments of relevant data, trends and action recommendations.
- Determine whether the Commonwealth reported publicly on the availability, quality, and gaps in services and made recommendations for improvement (V.6).

The Commonwealth is drafting a revised HCBS Waiver application that would encompass community-based supports for individuals with intellectual disabilities as well as individuals with other developmental disabilities. The application will include a Quality Improvement plan, but at the time of the review, such a plan was not yet available.

Commonwealth staff continue to refine the data for the eight domains. A document, dated March 31, 2014, breaks down the measures into Phase One and Phase Two implementation. Data collection for the sixteen Phase One measures began in March 2014, with data collection for some measures beginning in June 2014. For the additional eight Phase Two measures, data collection initiation dates had not yet been determined. Similar to the draft available during the previous review, this document included one or more measure for each of the eight domains with corresponding sources of data. As discussed in further detail below, this list represents a positive start, but further definition of the measures, as well as expansion of the measures, will be needed.

Although some progress has been made, many similar issues to those described in the previous report continue to be problematic. (Not all of the comments from the previous report are repeated here, but should be referenced, as appropriate.)

Briefly, continuing issues of concern include:

- **Comprehensiveness of Measures:** Although the list of measures includes some important information, it does not yet represent a full listing of data to assess and improve quality. As discussed in further detail in the last report, only limited reliable data sources are available; measures that should have been considered were not. Some efforts are underway to expand the sources of data to allow expansion of the measures. For example, the DMAS billing data is a potentially rich source of data as some of the Phase Two measures are based on billing data. For example, such data can

provide information about the numbers of individuals completing annual physical exams or the number of individuals prescribed types of medications.
In general, the Commonwealth has not incorporated previous suggestions related to expansion of measures into the most recent draft. Suggestions made previously include: expanding protection from harm indicators to include measures related to unexpected hospitalizations, elopements/missing persons, law enforcement contacts/arrests, etc.; including capacity indicators such as training or competencies to provide services; and including measures that represent a proactive rather than a reactive approach. The Commonwealth should continue to identify and/or develop relevant sources of data and expand the measures to assess and improve quality.

- **Complete Data:** To address the limited data available for individuals accessing the DD Waiver, on May 16, 2014, the Director of DMAS sent a Memo to all providers of DD Waiver Case Management services, indicating they are required to participate in data collection related to the Settlement Agreement. In July 2014, the Assistant Commissioner for Quality Management and Development sent a follow-up memo providing additional information about data requirements, as well as forms to aid in the collection of data. Quality Improvement Committee meeting minutes for June 2014 indicate increased data submission for DD Case Managers.

- **Measuring Quality:** As noted previously, the quality of services or supports often is not targeted for measurement, but simply the presence or absence of supports. Examples include the numbers of individuals using crisis services or the numbers of individuals in supported employment. Even when quality is reportedly a target for measurement (e.g., extent to which desired health and well being or community inclusion outcomes are achieved), the measures rely on the individuals' Individual Support Plans (ISPs) and case managers' assessment of progress as the basis to determine whether or not individuals are achieving these quality outcomes. Commonwealth staff recognize that the quality of ISPs varies greatly and that the reliability of case managers' data may be questionable. No process/output indicators are included in the draft to address the quality of the ISPs. Since the last review, the Commonwealth has developed a document entitled "DBHDS Additional Case Management Data Elements Guidance Document." This document states: "It is important to understand that responses for these measures reflect the case manager's overall impression of progress or success… The italicized text after the responses for the measures is meant to provide some helpful guidance, but 'most,' 'some,' and 'very few' are not precise terms and are not intended to be." Consequently, any data produced or reports generated from these measures of quality should clearly indicate these are not intended to be precise measures, but rather reflect the opinions of case management staff. The Commonwealth should develop measures that precisely measure the quality of supports and services.

- **Definition of Terms:** Since the last review, DBHDS staff have completed some work to provide definitions related to the data included in the various databases. For example, the December 2013 Regional Quality Council agenda included a handout on the definitions for expected and unexpected deaths, as well as natural, unnatural, and undetermined causes of death. However, a clear set of definitions for the measures

was not provided and more work is needed in this regard. For example, terms such as "barriers to discharge" (i.e., Phase One, Domain #7), or "actions taken or initiatives by the Quality Improvement Committee and Regional Quality Council" (i.e., Phase Two, Domain #1) required further definition to ensure reliability of the data.

- **Reliability of Data:** Commonwealth staff continue to improve the reliability of the data. However, they recognize that data are not yet accurate. For example, employment data were being generated but, as the December 2013 meeting minutes of the Regional Quality Councils noted, "…currently limited employment data is collected but plans include additional collection of this type of data. Employment data presented comes from CCS3… this data is typically collected at intake and is never updated." Further, the draft minutes from the June 25, 2014 meeting indicated that the Regional Quality Councils had reviewed employment data, but stated: "employment data is difficult to obtain because it is collected by a couple of agencies and some data is outdated because it is based on employment data collected at intake which is never updated."

- **Methodology for Data Collection:** The draft contains the source of data (i.e., where the data were maintained). For many of the indicators, however, it will be important to detail the methodology used to collect the data and to ensure data are collected the same way each time.

In summary, the Commonwealth has made limited progress in initiating the identification of data to assess and improve quality. However, a number of challenges still need to be overcome. Previous recommendations related to these efforts remain relevant, including:

- The Commonwealth should continue to identify and/or develop relevant sources of data..

- For each of the indicators identified for the Settlement Agreement domains, in addition to identifying the data source, definitions and methodologies should be developed; as appropriate, baselines or benchmarks should be identified; and targets or goals should be set.

- At a minimum and as appropriate to the particular indicator, the methodology section should include the following: 1) how the data will be collected (e.g., through a monitoring tool, through review of records, through a database, through review of the implementation of individuals' ISPs, etc.); 2) how often and when (e.g., end of month, within first five days of month for preceding month, etc.) the data will be pulled; 3) the schedule for assessing data reliability and validity and who will be responsible for this; 4) what subpopulation or percentage of the population will be included in the sample (e.g., 100% or some lesser but valid sample); 5) the standards that will be applied to judge conformance with the measure; 6) who will be responsible for collecting and/or reporting the data; 7) clear formulas for calculating the indicator/measure, including how the "N" and "n" will be determined, and what mathematical or statistical procedures will be used (i.e., this might be included in the definition discussed above); and 8) who will be responsible for analyzing the data.

Based on review of the DBHDS Quality Improvement Committee minutes for the months of December 2013 through June 2014, some discussions were occurring regarding data; basic analyses of the data were sometimes referenced. As noted elsewhere in this Report, the Quality Improvement Committee has access to limited data, due to the ongoing development of data sources and measures. It was positive that, at times, the Quality Improvement Committee identified issues with data (e.g., the need for more complete data related to mortalities, especially for people living at home, or the need to further define the "other" category related to neglect) and discussed mechanisms to correct the issues. However, only limited in-depth analyses have been completed and limited actions taken to address trends identified and implemented. For example, Commonwealth staff conducted some analysis of neglect data and identified medication errors as a significant category of substantiated neglect. One provider was identified as responsible for a number of these incidents. It was not clear whether the Quality Improvement Committee determined the need for any follow-up corrective action.

A draft document entitled "Guidelines for the Operation of Regional Quality Councils," dated August 15, 2014, sets forth the function and structure of the Regional Quality Councils, as well as membership requirements and voting rules. It clearly indicates that the DBHDS Quality Improvement Council directs the work of the Regional Quality Councils.

DBHDS staff continue to work to ensure broad membership on the Regional Quality Councils. Based on membership lists, as of July 28, 2014, all Councils include staff experienced in data analysis, residential services providers, day support service providers, ID Case Management providers, DD Case Management providers, other Community Services Board staff, family members, and Community Resource Consultants. Four of the five Councils have employment services providers. Three of the five Regional Quality Councils include individuals served.

In terms of the Regional Quality Councils' role in "assessing relevant data, identifying trends, and recommending responsive actions," since the last review, some progress has occurred, but the Councils remain at the beginning stages of using data to identify areas requiring improvement and to issue recommendations. There is evidence to confirm that members of the Division of Quality Management and Development regularly support the Councils' activities and that the Commonwealth shares some limited data. For example, in recent Council meetings, DBHDS shared some data on abuse, deaths, serious injuries, employment, and case management, as well as Regional Support Team data. To date, however, Regional Quality Councils are conducting little to no analysis of the data shared, other than, for example, some discussion of factors that might impact the data presented or better presentation methods.

It is anticipated that the Commonwealth will hire an additional Quality Improvement Specialist (a nurse), two Data Analysts (two positions recently were vacated), as well as an Analytics position. These staffing supports should be helpful in further supporting the work of the Regional Quality Councils, particularly with regard to analysis.

After the previous review, Commonwealth staff identified that a next step would the development of communication plans for the Regional Quality Councils Since then, a draft

Quality Management Communication Plan, dated August 15, 2014, established the communication between the Division of Quality Management, the DBHDS Quality Improvement Committee and the Regional Quality Councils. Based on review of the draft, it generally sets forth reasonable mechanisms for the flow of information between these entities, as well as annual reporting to broader audiences. In addition, an Annual Quality Management Meeting will be held. At this meeting, the Annual Quality Management Plan and Annual Quality Management Evaluation will be on the agenda, and Regional Quality Councils will present regional quality improvement projects and discuss progress.

Neither the draft Quality Management Communication Plan nor the Guidelines for the Operation of Regional Quality Councils discuss how recommendations from the Councils would be communicated to or addressed by the DBHDS Quality Improvement Committee. This might have been defined in another document, but it would be important to specifically address Regional Quality Council recommendations in one or both of these documents. Presumably, in the Regional Quality Council Liaison reports, recommendations could be transmitted. However, it is unclear what weight recommendations would have and/or how the Quality Improvement Committee would communicate their acceptance or deferral of these recommendations. It also is unclear if the Regional Quality Councils could make recommendations directly to other entities (e.g., entities responsible for data collection, Community Services Boards, community provider agencies, etc.). It is recommended that the Commonwealth provide written clarification about the communication of and response to Regional Quality Council recommendations.

The Commonwealth has not issued an annual public report "on the availability (including the number of people served in each type of service described in this Agreement) and quality of supports and services in the community and gaps in services, and… recommendations for improvements." However, based on a discussion with the Acting Assistant Commissioner of Quality Management and Development and review of a draft Quality Management Communication Plan, plans are underway to develop and issue such a report. Specifically, the draft Communication Plan requires development of an Annual Quality Management Evaluation and presentation to a number of audiences, including the DBHDS Quality Improvement Committee and the Regional Quality Councils, as well as posting on the DBHDS website to allow access to a variety of audiences, including providers, individuals, their families, and advocates.

For the third quarter of Fiscal Year 2014 (January through March 2014), the Commonwealth generated a report summarizing data from the Regional Support Teams. Although this report did not yet quantify and/or fully analyze the gaps in services, it took some important first steps in detailing the data being collected by the Regional Support Teams (e.g., reasons for referral to the Regional Support Teams, residential and day service choices at time of referral, recommendations of the Support Team, specific medical and behavioral barriers, and residential and day services choices at review) and summarizing, for each Region, the Level 3 barriers identified (i.e., systems level).

In summary, at the time of the review, the Commonwealth had not yet published a report. However, plans are underway to develop an annual report on quality. This will require further review in the future.

1. *The Commonwealth shall require all providers (including Training Centers, CSBs, and other community providers) to develop and implement a quality improvement ("QI") program, including root cause analyses, that is sufficient to identify and address significant service issues and is consistent with the requirements of the DBHDS Licensing Regulations at 12 VAC 35-105-620 in effect on the effective date of this Agreement and the provisions of this Agreement.*
2. *Within 12 months of the effective date of this Agreement, the Commonwealth shall develop measures that CSBs and other community providers are required to report to DBHDS on a regular basis, either through their risk management/critical incident reporting requirements or through their QI program. Reported key indicators shall capture information regarding both positive and negative outcomes for both health and safety and community integration, and will be selected from the relevant domains listed in Section V.D.3 above. The measures will be monitored and reviewed by the DBHDS quality improvement committee, with input from the Regional Quality Councils, described in Section V.D.5 above. The DBHDS quality improvement committee will assess the validity of each measure at least annually and update measures accordingly.*
3. *The Commonwealth shall use Quality Service Reviews and other mechanisms to assess the adequacy of providers' quality improvement strategies and shall provide technical assistance and other oversight to providers whose quality improvement strategies the Commonwealth determines to be inadequate.*

As noted in the last Report, the Settlement Agreement established the requirement for providers to monitor and evaluate service quality; it referenced the DBHDS Licensing Regulations at 12 VAC 35-105-620. Specifically, the regulations require: "The provider shall implement written policies and procedures to monitor and evaluate service quality and effectiveness on a systematic and ongoing basis. Input from individuals receiving services and their authorized representatives, if applicable, about services used and satisfaction level of participation in the direction of service planning shall be part of the provider's quality assurance system. The provider shall implement improvements, when indicated."

The Commonwealth has added Quality Improvement program requirements to the draft Performance Contract with Community Services Boards for Fiscal Years 2015 and 2016. Based on a review of the contract, the Scope of Services section requires Community Services Boards to participate with DBHDS to collect and analyze reliable data; identifies the eight domains of data included in the Settlement Agreement; and requires Community Services Boards to participate in Quality Service Reviews. In addition, the contract requires Community Services Boards to maintain Quality Improvement plans, including performance measures and individual outcome measures to improve services and to ensure services are provided in accordance with generally accepted standards of practice. The contract also requires Community Service Boards, to "the extent practicable, incorporate specific language in its subcontracts regarding the quality improvement activities of subcontractors. Each vendor that subcontracts with the Community Services Board should have its own Quality

Improvement system in place or should participate in the Community Services Board's Quality Improvement program." These requirements appear reasonably sufficient.

The Commonwealth's oversight of community providers' Quality Improvement programs remains a work in progress. As noted previously, it was anticipated that providers would have different levels of sophistication regarding their Quality Improvement processes. Once the Commonwealth clearly sets expectations in relation to Quality Improvement processes, and provides technical assistance and guidance, the Office of Licensing will have a role in ensuring providers are compliant.

The Acting Assistant Commissioner of Quality Management and Development reported that her office is developing a look-behind review process for Community Services Boards that will offer evaluation and technical assistance. She indicated her intent to include a Quality Improvement component. She also discussed the intent to utilize trigger data to identify situations requiring correction and to use these situations as opportunities for Commonwealth Quality Management staff to review any actions taken and to provide technical assistance, as needed. If implemented, these activities would appear to complement the activities of the Office of Licensing related to provider and Community Services Board Quality Improvement programs.

As noted in the sections above, the Commonwealth has made some progress, but still is in the process of finalizing drafts of the data it intends to collect. Some of the data to be collected by providers has been identified, but, in order to address the requirements of the Settlement Agreement, additional data will likely be required from providers. In some cases, the reliability of the data requires improvement. For example, the Commonwealth recognizes that data collected by case managers is not reliable. Case managers require further instruction and training to improve data reliability.

As discussed in more detail above, Regional Quality Councils continue to meet and review some data. Similarly, the Commonwealth's Quality Improvement Committee meets regularly and uses some of the data available to them. A Regional Quality Council member reported that Commonwealth staff provided supports to assist members in understanding their responsibilities and also assisted with the Council's initial efforts to analyze data. Quality Management and Development staff recognized the need for both additional data and more in-depth analyses of data.

In summary, the Commonwealth remains in the beginning stages of developing and implementing communication mechanisms to convey to providers their responsibilities for maintaining necessary Quality Improvement processes and to share data with the Commonwealth. Mechanisms for reviewing provider data, such as the Regional Quality Councils and the Commonwealth's Quality Improvement Committee, are also in the beginning stages. Some initial analysis of data is occurring, but only limited data are available to inform the Committees' decision-making; more in-depth analyses will be needed over time. The following recommendations are offered for the Commonwealth's consideration:

- To ensure consistent implementation of Quality Improvement programs across providers and the collection and reporting of reliable data, the Commonwealth should pursue plans to offer training to Community Services Boards, DD Case Management agencies, and community providers on quality management expectations.

- The Office of Licensing should consider developing and issuing interpretive guidance to further define how it will assess compliance with the very broad requirements for Quality Improvement programs articulated in 12 VAC 35-105-620.

- As a mechanism to offer technical assistance, Quality Management and Development staff are encouraged to continue developing a look-behind review process for Community Services Boards, including review of their Quality Improvement initiatives.

1. *The Commonwealth shall have a statewide core competency-based training curriculum for all staff who provide services under this Agreement. The training shall include person-centered practices, community integration and self-determination awareness, and required elements of service training.*
2. *The Commonwealth shall ensure that the statewide training program includes adequate coaching and supervision of staff trainees. Coaches and supervisors must have demonstrated competency in providing the services they are coaching and supervising.*

The work completed for this Report included assessing the development of a statewide core competency-based training curriculum for all staff providing services under this Agreement. Based on the report of the Acting Assistant Commissioner of Quality Management and Development, some limited work has been done, but significantly more work still is needed. Specifically, portions of a competency-based curriculum have been developed for case managers. Training materials include eight modules, including one, added in July 2014, on methods for discussing options for employment. (The Independent Reviewer's consultant on case management has commented on the quality of these modules.) In addition, two case management modules, on crisis services and housing, are in stages of development. Instruction on Individual Support Plans has been retooled and a module on person-centered planning is scheduled for January 2015. At the time of the review, the group responsible for development of this training was discussing ways in which to determine competency.

In summary, it is positive to find that the Commonwealth has focused on the development and implementation of competency-based training for case managers and is expanding the modules, as appropriate. In addition, efforts to finalize and implement investigation and root-cause analysis training are important priorities.

It is important that next steps include comprehensive planning for statewide core competency-based training for all staff providing services under the Agreement.

This will be a significant undertaking. It will be important to: 1) define training topics; 2) identify the staff to be trained; 3) determine how competency will be measured; and 4)

specify the frequency with which retraining should occur. The Commonwealth should define, for each topic, the type of competency-based training required, including, for example, knowledge-based competency (assessed through a written post-test), skills–based competency (assessed through classroom demonstration), and ability- or expertise-based competency (assessed through on-the-job observation).

1. *The Commonwealth shall use Quality Service Reviews ("QSRs") to evaluate the quality of services at an individual, provider, and system-wide level and the extent to which services are provided in the most integrated setting appropriate to individuals' needs and choice. QSRs shall collect information through:*
    a. *Face-to Face interviews of the individual, relevant professional staff, and other people involved in the individual's life; and*
    b. *Assessment, informed by face-to-face interviews, of treatment records, incident/injury data, key-indicator performance data, compliance with the service requirements of this Agreement, and the contractual compliance of community services boards and/or community providers.*
2. *QSRs shall evaluate whether individuals' needs are being identified and met through person-centered planning and thinking (including building on the individuals' strengths, preferences, and goals), whether services are being provided in the most integrated setting appropriate to the individuals' needs and consistent with their informed choice, and whether individuals are having opportunities for integration in all aspects of their lives (e.g., living arrangements, work and other day activities, access to community services and activities, and opportunities for relationships with non-paid individuals). Information from the QSRs shall be used to improve practice and the quality of services on the provider, CSB, and system wide levels.*
3. *The Commonwealth shall ensure those conducting QSRs are adequately trained and a reasonable sample of look-behind QSRs are completed to validate the reliability of the QSR process.*
4. *The Commonwealth shall conduct QSRs annually of a statistically significant sample of individuals receiving services under this Agreement.*

In the previous report, it was concluded that the Commonwealth has made progress in initiating the use of the National Core Indicators (NCI) Survey tools to collect some important data. However, these surveys are not consistent with all of the requirements included in the Settlement Agreement in relation to Quality Service Reviews. Therefore, it was recommended that the Commonwealth review the specific requirements in the Settlement Agreement for the Quality Service Reviews, and either add to the NCI process or replace it with an alternative.

In response to this recommendation, the Commonwealth decided to supplement the NCI process by contracting with a Quality Improvement Organization (QIO)-like entity.

At the time of the current review, the Commonwealth was in the final stages of contracting with such an entity to conduct Quality Service Reviews. In addition, the NCI surveys for 2014

were completed with generally good participation. Virginia Commonwealth University has begun to work with some of the data, but a final report will not be available until 2015.

On March 31, 2014, the Commonwealth submitted a detailed work plan to the Independent Reviewer ("DBHDS Quality Service Reviews (QSRs): Overview of the 2014-2015 QSR Implementation Plan." This is a reasonable plan to develop a Quality Service Review process that would meet the requirements of the Settlement Agreement. This plan is reflected in other documents, including a Request for Proposals (RFP), dated April 11, 2014, with a closing date of June 5, 2014.

The Implementation Plan and RFP clearly set forth the purpose of the Quality Service Reviews as defined in Section V.I.2 of the Settlement Agreement. There is a three-tiered approach to conduct the Quality Service Reviews, including:

- Conducting Person-Centered Reviews (PCRs) of a statistically significant sample of individuals receiving services and supports under the Settlement Agreement. In addition to reviewing documents related to the individual's supports and services, the contractor would conduct observations, as well as interviews, with the individual, family/others involved in the individual's life, the Service Coordinator, and other relevant professional staff. The contractor would provide recommendations to improve practice and service quality at the provider level;
- Conducting Provider Quality Reviews (PQRs) of direct service and support providers serving the individuals selected for the Person Centered-Reviews. These reviews would review the recommendations of the Person Centered Reviews, as well as reviews of critical incident data, program services, polices and practices, provider performance, compliance data, and individual outcome data. National Core Indicator results also would be reviewed. The contractor would conduct interviews with program administrators/staff;
- Completing Quality Service Review Assessments would involve reviews at the Community Services Board, regional, and statewide levels, including results of Person-Centered Reviews, Provider Quality Reviews, key performance indicators, individual outcomes, incident data, National Core Indicator results, and service system compliance with contractual, regulatory, and Settlement Agreement requirements; and
- Submission of Quality Service Review Assessment reports, including reports on the Person-Centered Reviews and Provider Quality Reviews for individuals in the sample, as well as assessment/analysis of the systemic data. The contractor would provide recommendations to DBHDS, the Commonwealth Quality Improvement Committee, and the Regional Quality Councils for improving the quality of services and practices at the provider, Community Services Board, regional, and statewide levels.

At the time of the review, the Commonwealth was in the process of finalizing a contract with a vendor to conduct the Quality Service Reviews. As a result, implementation had not begun. However, the framework of the revised Quality Service Review process appears to meet the intent of the Settlement Agreement. During future reviews, it will be important to review the final contract and implementation of the revised Quality Service Review process.

Based on interview with Commonwealth staff and review of the RFP, once a contract is established for the completion of the Quality Service Reviews, Commonwealth staff will work with contractor staff to define the process for the selection of a significantly significant sample. As a result, at this time, comments cannot be made on the selection of the sample.

In summary, since the last review, the Commonwealth has worked diligently to modify the Quality Service Review process to meet the requirements of the Settlement Agreement. The staff of the Commonwealth were in the final stages of contracting to implement a process that appeared to add necessary elements and to make use of the important data collected through the National Core Indicator surveys, as well as other incident, performance, outcome, and compliance data.

CONCLUDING COMMENTS

In conclusion, the Commonwealth has made progress with regard to a number of the Settlement Agreement requirements for a Quality and Risk Management system. There continues to be support for developing a strong quality improvement system. However, the system is being built from the ground up and developing the infrastructure for a solid quality improvement system is labor intensive.

A number of challenges remain ahead. As described in this report, many of the initiatives remain in the beginning phases of implementation. Sustained efforts in both the development of the basis for reliable and valid data and in the implementation of staff training are critical to successful change. In addition, an overarching theme continues to be the need to expand the scope of available data in order to allow comprehensive and meaningful quality improvement and risk management initiatives to occur.

APPENDIX A – Interviews and Documents Reviewed

Interviews:

- Dee Keenan, DBHDS, Acting Assistant Commissioner, QM&D;
- Todd Cramer, MC Supervisor, Horizon Behavioral Health (member of Regional Quality Council for Region 1);
- Marion Greenfield, DBHDS, Director of Clinical Quality and Risk Management;
- Charline Davidson, DBHDS, Director of Planning and Development;
- Denise Dunn, DBHDS, Abuse Neglect Investigations Manager and Chief Privacy Officer;
- Keven Schock, DBHDS, Associate Director of Licensing; and
- Stella Stith, and Karen Moten, Data Analysts.

Documents Reviewed:

- Data for Individuals Meeting the Criteria for Enhanced Developmental Case Management – May 2014 CCS3 Submission, including breakdowns according to Community Service Boards for Health and Well-Being Goal Measure, Living Arrangement Stability Measure, Day Activity Stability Measure, Community Inclusion Goal Measure, and Choice and Self-Determination Goal Measure;
- DBHDS DOJ Additional Case Management Data Elements Guidance Document;
- DBHDS DOJ Regional Quality Councils Membership;
- Regional Support Teams 3rd Quarter Report 2014;
- Health Planning Region (HPR) 1 Regional Quality Council Meeting Agendas and attachments for 9/26/13, 12/19/13, 3/26/13, and 6/25/13;
- Employment Data Report, dated 4/31/14;
- DBHDS, Quality Improvement Committee Meeting Minutes, dated 12/17/13, 2/18/14, 3/18/14, 4/18/14, 5/20/14, and 6/17/14 (with handouts);
- Draft Quality Management Communication Plan, dated 8/15/14;
- Draft Guidelines for the Operation of Regional Quality Councils, dated 8/15/14;
- Draft Risk Triggers and Thresholds;
- Sample Standard Triggers and Thresholds Reports – Phase I;
- DBHDS Dashboards;
- DBHDS Quality Service Reviews (QSRs) Overview of the 2014-2015 QSR Implementation Plan, dated 3/31/14;
- 2014-2015 QSR Implementation Strategy Activities, dated 3/24/14;
- Commonwealth of Virginia Request for Proposal: Quality Service Reviews, issue date 4/11/14;
- Medicaid Memo: DD Case Management Training and Data Collection, dated 5/16/14;
- Medicaid Memo: Implementation of Quality Service Reviews Pursuant to the Commonwealth's Settlement Agreement with the U.S. Department of Justice, dated 5/16/14;
- Memo to DD Case Management Providers, dated 7/7/14;
- Status of the Implementation of the DOJ Settlement Agreement Eight Domains, dated 3/31/14;
- Draft "What is Root Cause Analysis?" presentation, dated 7/29/14;
- Draft Risk Assessment: A Simple Approach for Identifying Risk, dated 7/14/14;
- Draft Investigation Process and Training for DBHDS Licensed Providers;
- Weekly Status Notes from DOJ Project Team 15, from 1/13/14 to 7/21/14;

- Meeting Minutes from Project Team 15: Quality Service Reviews, dated 11/7/13, 1/15/14, 2/6/14, 3/11/14, 4/1/14, 5/6/14, and 6/24/14;
- National Core Indicators in Virginia FY 2012-13;
- National Core Indicators in Virginia, presentation dated February 2014;
- NCI Adult Consumer Survey Final Report;
- NCI Child Family Survey Final Report;
- NCI Final Adult Consumer Survey Counts;
- 2013 NCI Methodology Used for the Number Determined to be a Statistically Significant Sample;
- 2013-2014 NCI Adult Individual and Adult Family Surveys' Elements by Focus Area;
- NCI Survey Data Analysis and Reporting Related to New HCBS Requirements;
- Bi-Monthly Report – NCI, May to June 2014;
- Standards for Trained Investigators;
- Training Centers Status: Discharges from the Training Center graphs and Deaths graphs; and
- DBHDS Health Analytics Project Final Report.

APPENDIX B – SHAY Rating Tool

The State Health Authority Yardstick (SHAY) is a nationally recognized tool developed at Dartmouth University to review a state's ability to plan, develop, monitor, and evaluate evidenced-based practices (EBP) regarding systems development and program implementation. It provides a rating scale to evaluate and determine the adequacy of the plan.

1. EBP Plan

The State Mental Health Authority (SMHA) has an EBP plan to address the following:

Note: The plan does not have to be a written document, or if written, does not have to be distinct document, but could be part of the state's overall strategic plan. However if not written the plan must be common knowledge among state employees (e.g., if several different staff are asked, they are able to communicate the plan clearly and consistently).

	1) A defined scope for initial and future implementation efforts;
	2) Strategy for outreach, education, and consensus building among providers and other stakeholders;
X	3) Identification of partners and community champions;
	4) Sources of funding;
	5) Training resources;
	6) Identification of policy and regulatory levers to support EBP;
	7) Role of other state agencies in supporting and/or implementing the EBP;
	8) Defines how EBP interfaces with other SMHA priorities and supports SMHA mission;
	9) Evaluation for implementation and outcomes of the EBP; and
	10) The plan is a written document, endorsed by the SMHA.

Score

	1) No planning activities
X	2) 1 – three components of planning
	3) 4 – 6 components of planning
	4) 7 – 9 components
	5) 10 components

Evidence Used to Justify Rating:

Pieces of a plan were in place, and as discussed in detail in the body of the report, clearly planning had occurred for the initial phases of the implementation of all of the components of the quality improvement and risk management components included in this review. However, many of the future implementation efforts remained in the development and planning stages, and based on discussions with staff, some of these specific plans were being implemented, and for others, more planning was needed.

Planning certainly was occurring, but further development was needed. This was to be expected in a system that had only some pieces of a quality assurance/improvement system in place when the Settlement Agreement was approved.

4. Training: Ongoing consultation and technical support
Is there ongoing training, supervision and consultation for the program leader and clinical staff to support implementation of the EBP and clinical skills?

Note: If there is variability among sites, then calculate/estimate the average visits per site.

	1) Initial didactic training in the EBP provided to clinicians (e.g., one to five days intensive training);
	2) Initial agency consultation re: implementation strategies, policies and procedures, etc. (e.g., one – three meetings with leadership prior to implementation or during initial training);
	3) Ongoing training for practitioners to reinforce application of EBP and address emergent practice difficulties until they are competent in the practice (minimum of three months, e.g., monthly x 12 months);
	4) On site supervision for practitioners, including observation of trainees clinical work and routines in their work setting, and feedback on practice. Videoconferencing that includes clients can substitute for onsite work (minimum of three supervision meetings or sessions for each trainee, e.g., monthly x 12 months); and
	5) Ongoing administrative consultation for program administrators until the practice is incorporated into routine workflow, policies and procedures at the agency (minimum of three months, e.g., monthly x 12 months).

Score	
X	1) 0-1 components
	2) 2 components
	3) 3 components
	4) 4 components
	5) 5 components

Evidence Used to Justify Rating:

As noted in the body of this report, the development and implementation of training components necessary for successful implementation of the Settlement Agreement (e.g., investigations training, etc.) remained in the planning stages.

9**. SMHA Leadership: Central Office EBP Leader**
There is an identified EBP leader (or coordinating team) that is characterized by the following:

X	1) EBP leader has adequate dedicated time for EBP implementation

	(minimum 10%), and time is protected from distractions, conflicting priorities, and crises;
X	2) There is evidence that the EBP leader has necessary authority to run the implementation;
X	3) There is evidence that EBP leader has good relationships with community programs; and
X	4) Is viewed as an effective leader (influence, authority, persistence, knows how to get things done) for the EBP, and can site examples of overcoming implementation barriers or establishing new EBP supports.

Score:

	1) No EBP leader
	2) 1 component
	3) 2 components
	4) 3 components
X	5) All 4 components

Evidence Used to Justify Rating:

At the time of the review, the DBHDS Acting Assistant Commissioner of QM&D had been in her position a short time, but had worked in the intellectual/developmental system in the community for years. As the former Director of Case Management, she had developed important relationships with many stakeholders.

The DBHDS Acting Assistant Commissioner of QM&D had oversight of the various components of quality improvement efforts. Her full-time responsibilities related to these implementation efforts. She appeared to be well respected by team members.

11. Policies and Regulations: SMHA

The SMHA has reviewed its own regulations, policies and procedures to identify and remove or mitigate any barriers to EBP implementation, and has introduced new key regulations as necessary to support and promote the EBP.

Score:

	1) Virtually all policies and regulations impacting the EBP act as barriers;
X	2) On balance, policies that create barriers outweigh policies that support/promote the EBP;
	3) Policies that support/promote the EBP are approximately equally balanced by policies that create barriers;
	4) On balance, policies that support/promote the EBP outweigh policies that create barriers; and
	5) Virtually all policies and regulations impacting the EBP support/promote the EBP.

Evidence Used to Justify Rating:

Although the policies/regulations in place provided some of the basic structures necessary to implement quality improvement efforts (e.g., providers were required to report some incidents, conduct investigations, etc.), as detailed in the body of this report, current regulations did not support full implementation of the requirements of the Settlement Agreement. Examples in the previous report remain relevant.

12. Policies and Regulations: SMHA EBP Program Standards
The SMHA has developed and implemented EBP standards consistent with the EBP model with the following components:

	1) Explicit EBP program standards and expectations, consonant with all EBP principles and fidelity components, for delivery of EBP services. (Note: fidelity scale may be considered EBP program standards, e.g., contract requires fidelity assessment with performance expectation);
X	2) SMHA has incorporated EBP standards into contracts, criteria for grant awards, licensing, certification, accreditation processes and/or other mechanisms;
	3) Monitors whether EBP standards have been met; and
X	4) Defines explicit consequences if EBP standards not met (e.g., contracts require delivery of model supported employment services, and contract penalties or non-renewal if standards not met; or licensing/accreditation standards if not met result in consequences for program license).

Score: **Not Rated**

	1) No components (e.g., no standards and not using available mechanisms at this time)
	2) 1 component
X	3) 2 components
	4) 3 components
	5) 4 components

Evidence Used to Justify Rating:

Based on review of the CSB contract, requirements were included in relation to quality improvement efforts. At this juncture, formal assessment of adherence to the requirements was not occurring, but the intent appeared to be to incorporate such assessment in future licensing activities, as well as less formal review of CSBs.