

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	CIVIL ACTION NO.:
)	1:10-CV-249-CAP
THE STATE OF GEORGIA, et al.,)	
)	
Defendants.)	
_____)	

**NOTICE OF JOINT FILING OF THE REPORT
OF THE INDEPENDENT REVIEWER**

On October 29, 2010, the Court adopted the parties’ proposed Settlement Agreement and retained jurisdiction to enforce it. Order, ECF No. 115. On May 27, 2016, the Court entered the parties’ proposed Extension Agreement and similarly retained jurisdiction to enforce it. Order, ECF No. 259.

Both documents contain provisions requiring an Independent Reviewer to issue reports on the State’s compliance efforts. Settlement Agreement ¶ VI.B; Extension Agreement ¶ 42.

On March 23, 2017, the Independent Reviewer, Elizabeth Jones, submitted to the parties her semi-annual report, along with two reports from her consultants. On behalf of the Independent Reviewer, the parties hereby file the Independent Reviewer’s report and the reports of her consultants.

Respectfully submitted, this 24th day of March, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2017, a copy of the foregoing document, Notice of Joint Filing of the Report of the Independent Reviewer, along with the underlying reports, were filed electronically with the Clerk of Court and served on all parties of record by operation of the Court's CM/ECF system.

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REPORT OF THE INDEPENDENT REVIEWER
In the Matter Of
United States of America v. The State of Georgia
Civil Action No. 1:10-CV-249-CAP

March 24, 2017

INTRODUCTORY COMMENTS

The terms of the Settlement Agreement and its Extension require structural and programmatic changes in the systems of support provided by the Department of Behavioral Health and Developmental Disabilities (DBHDD) for adults in the Target Population.

These individuals include the 283 men and women with a developmental disability (DD) now institutionalized in the State's civil or forensic units at Gracewood, the Georgia Regional Hospitals at Atlanta, Columbus, Savannah and Augusta, and in the forensic units at Central State Hospital.¹ Individuals with DD who are at risk of institutionalization in the State Hospitals are also included in the Target Population for community-based services/supports under the Agreement.

The Target Population for the Agreement's mental health services and supports includes "the approximately 9,000 individuals with [Serious and Persistent Mental Illness] SPMI who are currently being served in State Hospitals, who are frequently readmitted to the State Hospitals, who are frequently seen in emergency rooms, who are chronically homeless, and/or who are being released from jails or prisons. The Target Population also includes individuals with SPMI and forensic status in the care of DBHDD in the State Hospitals, if the relevant court finds that community services are appropriate, and individuals with SPMI and a co-occurring condition, such as substance abuse disorders or traumatic brain injuries." Extension Agreement Paragraph 30

As of February 28, 2017, there were 284 adults hospitalized in the non-forensic Adult Mental Health Units of the State Hospitals.²

The number of adults with SPMI now receiving community-based supports under the terms of the Agreement includes 2,478 individuals who are currently receiving Supported Housing throughout the State, as well as 1,608 individuals who are

¹ As of March 1, 2017, there were 178 individuals in Gracewood, including 152 in the Intermediate Care Facility (ICF) and 26 in the Skilled Nursing Facility (SNF). There were 31 individuals in the SNF at Georgia Regional Hospital Atlanta. Thirty-nine individuals with an intellectual/developmental disability were at East Central Hospital in Augusta. These individuals have been hospitalized more than fifteen days. Thirty-five individuals with a developmental disability and mental illness, who are all eligible for the Home and Community-Based Services Waiver, were hospitalized in the forensic units at the Cook Building (Central State Hospital) and the State Hospitals in Augusta, Columbus and Savannah.

² As of February 28, 2017, the census of the Adult Mental Health Units was 112 individuals in Georgia Regional Hospital Atlanta, 40 individuals at West Central Regional Hospital (Columbus), 66 individuals at East Central Hospital (Augusta) and 66 individuals at Georgia Regional Hospital in Savannah. Central State is a forensic hospital only.

presently enrolled in one of the twenty-two Assertive Community Treatment (ACT) Teams funded under the Agreement.

It is important to emphasize that, with the support of the Governor, the Georgia Legislature has continued to provide substantial funding for the services/supports required to implement the Agreement. A recent appropriation of 12 million dollars has been allocated to DBHDD so that it may now begin to implement its planned changes to the Home and Community-Based Services Waiver (Waiver) to enhance services/supports for people with DD. This new funding will be instrumental in compensating existing community providers for critical services, establishing new service codes, and recruiting new providers with much needed skill sets.

As has been the case throughout the past six years of the Settlement Agreement, the State of Georgia has acted in good faith to discharge its obligations.

The Extension Agreement has been in effect for nine months. There is evidence of diligent and conscientious efforts to implement the requirements of the Agreement and to introduce or strengthen systemic reforms. Examples of positive change include:

Supports for Individuals with a Developmental Disability

- It is clear that changes in the transition process for individuals with DD moving from a State Hospital to the community have been solidified. The foundational principles of the regional, pilot Pioneer Project are now statewide principles that shape the transition process and the collaboration between State Hospital and community-based staff. It has been especially important to note the leadership role played by State Hospital staff in responding to the concerns of families who are reluctant to agree to community placement. As a result, some families are beginning to consider alternatives to the institution.
- The role of support coordination in the transition process is now firmly established. The review of recent placements documented that Support Coordinators were assigned as expected under the terms of the Agreement.
- Although there has not yet been full compliance with the Provision regarding the caseload size of Support Coordinators, there has been notable progress in achieving those goals. As of February 21, 2017, there are now 633 individuals receiving Intensive Support Coordination, including 229 individuals who receive Waiver-funded services in order to avoid the risk of institutionalization.
- With the presentation of strong discharge planning, the courts are approving community placements for individuals with DD who have forensic histories.

The discharge planning has been individualized and appropriate safeguards are being implemented. At the same time, the transitions include opportunities for meaningful community-based experiences that are leading to skill development and positive behavioral change.

Supports for Individuals with Serious and Persistent Mental Illness

- The Georgia Housing Voucher Program continues to be a strong component with close ties to other State and Federal agencies. Collaboration has led to creative strategies in the development and expansion of housing resources. DBHDD and the Georgia Department of Community Affairs (DCA) now have a staff person assigned to strengthen coordination between the two agencies.
- DBHDD's ongoing studies of the effectiveness of its ACT programs continue to demonstrate that admission into ACT services has resulted in a significant change, a decrease, in the baseline average number of days spent in inpatient services at both six and twelve months after admission into ACT services. The results also confirmed that the initial change, approximately a seventy-two percent decrease, from the average baseline days spent in inpatient services prior to ACT admission was sustained over a twelve month period. The conclusions of these studies have been carefully reviewed by the Independent Reviewer's consultant. The importance of the State having adequate ACT resources is underscored by these findings.
- With the implementation of a new policy issued in February 2016, the number of discharges from State Hospitals to shelters, especially from Georgia Regional Hospital Atlanta, has declined sharply. As will be discussed further, this positive trend must be supplemented by increasing timely access to permanent housing with supports. At this time, there has been more reliance on motels/hotels and transitional congregate housing options. Nonetheless, the decline in referrals to shelters for homeless people is an important change in practice.
- There are more community-based options for individuals with a forensic status who are awaiting discharge from the State Hospital. Supervised housing, often the court's preference, now includes 55 group home placements, with six additional placements becoming available in April. In addition, there are 48 placements in supported apartments.

The positive changes described above need to be replicated in other key areas of the Agreement.

As explained in this Report, there are areas of the Agreement where the expected change is not evident or is moving more slowly than anticipated. For example:

- Although the transition process for community placement of individuals with DD from State Hospitals has been strengthened, the current pace of such transitions will not permit the implementation of integrated community placements for all institutionalized individuals by June 2018, the anticipated timeframe for completion of the Extension Agreement. This very real likelihood requires discussion and urgent action.
- The implementation of the High Risk Surveillance List, designed to identify and address risk in community-based residential settings, has been characterized by inconsistent, and sometimes inaccurate and/or inadequate, information or remedial actions. It is recommended that the Parties and the Independent Reviewer, with input from the Amici, review the Provisions related to this initiative in order to determine whether simplification or clarification would be appropriate and would lead to greater effectiveness. It is also recommended that the High Risk Surveillance List include all individuals in a specific residential setting where risk is identified, rather than be limited solely to individuals who transitioned from a State Hospital under the Agreement.
- At this time, the availability of needed services/supports through the Integrated Clinical Supports system is limited in scope. The plans for ensuring adequate resources should be reviewed to determine adequacy. Also, documentation of outcomes on the individual, programmatic and Regional levels needs to be consistently recorded so that strengths and weaknesses can be identified and remedied, if necessary.
- There is some promising evidence of systemic planning for the review of critical incidents and other adverse events. The trending and tracking of patterns should be escalated in order to design and implement proactive strategies to reduce risk. Investigations must be completed in a timely manner in order to identify and resolve programmatic or systemic weaknesses.
- As referenced in the last Report to the Court, DBHDD's process for referring individuals in State Hospitals, jails and prisons to Supported Housing needs prompt attention. The pace of such referrals has not been increased and the protocols for these referrals remain essentially the same.

Without substantial change to DBHDD's current approach, it is difficult to see how the Agreement's requirements for access to Supported Housing for all members of the Target Population can be met in the time remaining for implementation of the Agreement.

On March 6, 2017, the Parties to this Agreement were given an opportunity to review the draft of this Report and to provide comments and/or supplemental

information, as desired. Comments were received on March 20, 2017 and have been thoroughly reviewed. The Independent Reviewer made changes and clarifications as needed.

METHODOLOGY

The Extension Agreement requires, in Paragraph 42, that “the Independent Reviewer shall issue compliance reports semi-annually. These reports shall include a detailed reporting on each discrete task and timeframe in this Extension Agreement. “

In order to address this responsibility, extensive fieldwork was conducted for the preparation of this Report:

DD

Fifty-three individuals with DD were randomly selected in order to determine their status on the High Risk Surveillance List. The sample was stratified by Region and included 31 men and 22 women. The majority of individuals (62%) were between the ages of 41 and 60 years. Forty-seven individuals lived in a group residence. The site visits involved observation at the residence and, in some instances, the day program; interviews with the staff/family member and, if possible, the individual; review of available documentation; and, in some cases, interviews with the Support Coordinator.

Reports from these site visits have been forwarded to the Parties. DBHDD has agreed to provide a written response to any identified concerns, as described on the Issue Page of the individual’s report, by the end of June 2017.

In addition, 22 of the 26 individuals with DD who transitioned from State Hospitals in Fiscal Year 2016 were reviewed at either their residence or day program. (Three individuals could not be reviewed due to logistical constraints. One individual was deceased.)

Site visits were made to all of the nine crisis respite homes for individuals with DD in the State. Fifteen individuals with lengths of stay exceeding 30 days were reviewed through observation, interview and document review.

Mental Health

The clinical records of 24 individuals discharged to shelters from State Hospitals were reviewed for the first two quarters of Fiscal Year 2017. Key clinicians at the respective State Hospital were interviewed about these shelter discharges.

The clinical records of individuals currently committed to a State Hospital and determined to be Incompetent to Stand Trial (IST) or Not Guilty by Reason of Insanity (NGRI) were reviewed to determine the status of their discharge planning. These forensic clients were hospitalized in Georgia Regional Hospital Atlanta, East Central Hospital (Augusta), West Central Hospital (Columbus) and Georgia Regional

Hospital Savannah. Clinicians at each Hospital were interviewed as were a certain number of the individuals themselves.

Selected locations of housing funded under the terms of the Settlement Agreement were visited for brief observation. Discussions about the Supported Housing provisions of the Agreement were held with key staff at DBHDD and DCA.

The Independent Reviewer's work included frequent meetings with the leadership of DBHDD in order to discuss the progress of its systemic reforms, including any challenges.

Commissioner Judy Fitzgerald and her staff continued to be very accessible, candid and responsive to the multiple requests for information. The Commissioner of the Department of Community Health, Frank Berry, met with the Independent Reviewer on several occasions to discuss issues of importance to both agencies. The newly-appointed Director of Settlement Coordination, Evelyn Harris, provided extensive assistance to the Independent Reviewer and her consultants. She has been thorough and thoughtful.

The Independent Reviewer met throughout this reporting period with attorneys for the United States Department of Justice and for the State of Georgia. These meetings were extremely helpful in clarifying the intent of the Settlement Agreement and its Extension and in developing strategies for monitoring its implementation. Site visits were conducted in Region 3 and then in Region 2 with attorneys for the United States, the Special Assistant Attorney General for the State of Georgia and the Director of Settlement Coordination. These visits included residences for individuals with a developmental disability, supported housing, crisis respite homes, Gracewood, a shelter for homeless adults and meetings with staff from two agencies providing clinical supports and residential services.

As required by the Extension Agreement in Paragraph 43, quarterly meetings with the Amici and the Parties were convened in order to review the status of discrete requirements and to address questions or concerns. These meetings have been productive and forthright in their tone. The Independent Reviewer also had the opportunity to meet separately with the Amici in order to learn from their observations and experiences.

The generous assistance and prompt responsiveness shown to the Independent Reviewer and her consultants cannot be overstated and is greatly appreciated.

FOUNDATIONAL PROVISIONS

Paragraph I.K. of the Settlement Agreement requires that “to the extent the State offers public services to qualified individuals with disabilities, such services shall be provided in the most integrated setting appropriate to meet the needs of such qualified individuals with disabilities.” This core Provision is applicable to all subsequent Provisions of the Settlement Agreement and its agreed upon Extension.

The Parties to this Agreement have determined that five Provisions from the first Settlement Agreement will not be released and will remain as “foundational” Provisions. These five Provisions include:

III.A.1.a.

By July 1, 2011, the State shall cease all admissions to the State Hospitals of all individuals for whom the reason for admission is due to a primary diagnosis of a developmental disability.

The State continues to be in substantial compliance with this Provision. The Independent Reviewer has no evidence that there have been admissions to any State Hospital based on a developmental disability diagnosis alone. However, during the review of forensic clients currently placed in a State Hospital and determined to be incompetent or NGRI, it was learned that there are six individuals with a diagnosis of Intellectual Disability only, with no mental health diagnosis, committed by the courts to West Central Regional Hospital Columbus (2), Georgia Regional Hospital Savannah (1), Georgia Regional Hospital Atlanta (1), East Central Hospital Augusta (1) and Central State Hospital (1). Each of these individuals had a major felony charge. The status of these individuals has been discussed with DBHDD. Part of that discussion included the current actions, including training, taken by DBHDD’s clinical leadership to inform the Courts about available community resources as alternatives to hospitalization. The Independent Reviewer will continue to review this issue as appropriate. It should be noted that recent placements of individuals with DD, as well as with forensic status, have demonstrated the growing capacity of the community system to provide appropriately individualized supports and safeguards.

III.A.2.b.ii.(B).

Individuals in the target population shall not be served in a host home or a congregate community living setting unless such placement is consistent with the individual’s informed choice. For individuals in the target population not served in their own home or their family’s home, the number of individuals served in a host home as defined by Georgia law shall not exceed two, and the number of individuals served in any congregate community living setting shall not exceed four.

The State remains in substantial compliance with this Provision. Throughout the course of this Agreement, there have been no placements in residential group settings with more than four individuals or in host homes with more than two individuals. However, based on the site visits completed for this Report, DBHDD has been asked to re-issue its instructions regarding the size and location of community residences.

There were three sites that raised concern. One residential setting in Pooler had two adjacent residences, sharing a common wall and separated from other houses in the neighborhood, with three individuals in each residence. Although technically in compliance with this Provision, there was a “clustering” effect that rendered this setting not truly integrated into the community. There was a recent placement in one of these residences. In Waycross, there was one large house subdivided into six apartments. It was under the management of a single provider agency. Although there were only one or two individuals living in each individual apartment, the building as a whole housed seven individuals with a disability. The third setting in Macon had two group homes located alongside each other.

III.A.3.b.

Individuals with developmental disabilities and forensic status shall be included in the target population and the waivers described in this Section, if the relevant court finds that community placement is appropriate. This paragraph shall not be interpreted as expanding the State’s obligations under paragraph III.A.2.b.

DBHDD remains in substantial compliance with this Provision. Indeed, one of the most important developments in DBHDD’s work has been the creative and highly individualized community placements of adults with a developmental disability and a forensic history. The nature of the individuals’ charges has required provider agencies with clearly defined skills in planning and implementing appropriate behavioral safeguards. The ability of these providers to ensure their responsibilities to the court while maximizing relevant community integration experiences is highly commendable.

III.B.2.a.i.(G).

All ACT teams will operate with fidelity to the Dartmouth Assertive Community Treatment model.

Based on the issue described below, this Provision is in its preliminary stages of review and will be discussed further in the next Report to the Court.

DBHDD continues to require adherence to the Dartmouth Assertive Community Treatment model and continues to measure compliance of its ACT teams, 22 in total,

established under the Settlement Agreement, to the Dartmouth Fidelity Scales (DACTS).

At this point in the current Fiscal Year, eight ACT teams have been assessed for fidelity. Their scores indicate substantial compliance (4.0 out of 5.0) with the Dartmouth model.

However, the review of the discrete scores for each of the eight ACT teams has raised questions about the rate of turnover in the teams' caseloads. The turnover is linked to graduation (highest rates on most teams) or to drop-out (lower rates of drop out for most teams). Since ACT was designed as a service that would maintain treatment engagement with mental health clients who frequently drop out of traditional office-based services and, as a result, experience poor outcomes such as frequent hospitalizations, housing instability/homelessness, and increased contacts with the criminal justice system, the volume of caseload turnover needs to be carefully examined.

When all of the fidelity reviews are received, the Independent Reviewer's consultant, Dr. Angela Rollins, will analyze DACTS scores and related percentages on the items related to turnover. She will determine whether the concern about turnover is related to specific teams only or is a systemic concern.

Once the teams with the highest turnover are determined, they will be contacted to better understand their challenges, if any, that lead to increased turnover. It will also be determined whether individuals who leave the teams are connected to housing and other supports.

If possible, it will be determined whether the need to enroll new admissions on the ACT teams contributes to the turnover rate. In areas where ACT utilization is at, or close to, capacity, there may be a need for additional ACT teams in order to achieve expected outcomes for the SPMI population.

III.C.1.

Individuals under the age of 18 shall not be admitted to, or otherwise served, in the State Hospitals or on State Hospital grounds, unless the individual meets the criteria for emancipated minor, as set forth in Article 6 of Title 15, Chapter 11 of the Georgia Code, O.C.G.A. §§ 15-11-200 et seq.

DBHDD remains in compliance with this Provision. There is no evidence that any individual under the age of 18 years has been admitted to a State Hospital or served on State Hospital grounds in the last six months, or in recent years.

The Independent Reviewer has requested that the Parties designate two other Provisions as "foundational." Those Provisions are:

III.C.2.

Individuals in the target population with developmental disabilities and/or serious and persistent mental illness shall not be transferred from one institutional setting to another or from a State Hospital to a skilled nursing facility, intermediate care facility, or assisted living facility unless consistent with the individual's informed choice or is warranted by the individual's medical condition. Provided, however, if the State is in the process of closing all units of a certain clinical service category at a State Hospital, the State may transfer an individual from one institutional setting to another if appropriate to that individual's needs. Further provided that the State may transfer individuals in State Hospitals with developmental disabilities who are on forensic status to another State Hospital if appropriate to that individual's needs. The State may not transfer an individual from one institutional setting to another more than once.

This Provision is partially reflected in Provision 10 of the Extension Agreement. This Provision requires that the State give seven days notice to the Independent Reviewer if it determines that any individual with DD's "most integrated setting is a State Hospital or any public or private skilled nursing facility, intermediate care facility for developmental disabilities, or psychiatric facility." However, the Extension Agreement does not contain comparable language or any restriction on transfers for an individual with SPMI. Although no notice has been provided to the Independent Reviewer of any transfer of an individual with DD to another institutional setting, it is not known whether there have been any such transfers of individuals with SPMI. This information can be important when assessing the capacity and effectiveness of the mental health system and the availability of community-based supports throughout the State.

V.E.

The State shall notify the Independent Reviewer(s) promptly upon the death of any individual actively receiving services pursuant to this Agreement. The State shall, via email, forward to the United States and the Independent Reviewer(s) electronic copies of all completed incident reports and final reports of investigations related to such incidents as well as any autopsies and death summaries in the State's possession.

In the Section entitled, "Provisions Related to Persons with Developmental Disabilities (DD)," the Extension Agreement has precise language, in Provisions 20 through 27, regarding the reporting and investigation of the deaths of individuals with DD. However, there are not any comparable requirements regarding individuals with SPMI. As a result, the Independent Reviewer has not been routinely provided the reports of deaths for these individuals. This is a change in practice from the initial Settlement Agreement; it significantly affects the Independent

Reviewer's ability to monitor the quality of the supports provided to members of the Target Population with SPMI. It is requested, therefore, that the State provide the reports and subsequent investigations of any deaths of individuals with SPMI that have occurred since the beginning of Fiscal Year 2017.

The Extension of the Settlement Agreement, in Paragraph 5, requires that "the State's obligations under all provisions of the Settlement Agreement remain in force until they have been terminated pursuant to Section VII.B. of the Settlement Agreement."

The Parties have taken under advisement the Independent Reviewer's recommendation that Provisions III.C.2. and V.E. be considered foundational.

Released Provisions

By agreement of the Parties, the released provisions are not subject to active monitoring by the Independent Reviewer unless information is received that indicates a possible change in expected compliance.

In January 2017, the Independent Reviewer received a complaint from a reliable source that one mobile crisis team was not responding to calls for assistance. This complaint alleged a violation of Provision **III.B.2.b.v.(B)(3)**:

By July 1, 2015, the State shall have mobile crisis services within all 159 of 159 counties with an annual average response time of 1 hour or less.

In addition, the complaint alleged that the standards established in Provision **III.B.2.b.v.(A)** were not being met. This Provision requires that:

Mobile crisis teams shall respond to crises anywhere in the community (e.g., homes or hospital emergency rooms) 24 hours per day, seven days per week.

This complaint is in the process of being examined by the Independent Reviewer. Documentation has been requested and is being received from DBHDD.

PROVISIONS RELATED TO PERSONS WITH DEVELOPMENTAL DISABILITIES

To the extent possible, given the information and documentation available, this Section addresses each of the Provisions related to individuals in the Target Population with a developmental disability.

The Extension Agreement has been in effect for nine months; some expected actions are not yet due. It is anticipated that the next Report to the Court, to be filed in September 2017, will include more detail about each of the Provisions.

It is important to note at the outset that there is limited information available at this time regarding outcomes. DBHDD acknowledged in the January 12, 2017 Parties' meeting with the Amici that "there is insufficient data for large scale analytics" regarding the outcome measures related to support coordination and that quality reviews are needed for those individuals on the High Risk Surveillance List.

In the time remaining for the Agreement's implementation, it is strongly recommended that DBHDD document the effectiveness of its new initiatives, such as the High Risk Surveillance List, Integrated Clinical Support Teams, revised COMP Waiver and Intensive Support Coordination, with evidence that poor outcomes, such as unanticipated health care or mental health/behavioral crises, contact with hospitals or other institutional settings or involvement with the police/law enforcement, have been minimized. DBHDD should ensure and document the effectiveness of its mobile crisis program with evidence that poor outcomes have decreased over time and have been minimized.

Additionally, and equally important, is the realization that the current pace of State Hospital transitions will not permit the implementation of integrated community placements for all currently institutionalized individuals by June 30, 2018. This very real likelihood requires discussion by the Parties, with input from the Amici, in the near future. The discussion should help DBHDD determine whether there are changes that need to be made in the transition planning process and in the development of appropriate community options.

Finally, as noted below, the Independent Reviewer has discussed the proposed Provider Recruitment Plan with DBHDD. Although the planned actions are reasonable, they require more detail about implementation. The timelines as now established are well into the final stages of the Agreement's expected timeframe. There is no disagreement that provider capacity needs to be strengthened and expanded, especially for those individuals requiring specialized staff skills for health and behavioral challenges. The ability to transition individuals from State Hospitals to the community at a quicker, although still responsible, pace is dependent to a large degree on implementing a more assertive Provider Recruitment Plan.

With only fifteen months remaining for the implementation of the Agreement, it is absolutely essential that DBHDD act with urgency to meet its obligations. Although there has been noteworthy progress in certain discrete areas of implementation, the reform efforts require additional diligent and effective actions if compliance is to be achieved within the anticipated timeframe. These necessary actions are within the scope of DBHDD's responsibility and authority.

Specific Provisions

Transitions from State Hospitals to the Community:

6. Between July 1, 2015 and June 30, 2016, the State shall transition at least 25 individuals with DD from the State Hospitals to the community. The State shall provide COMP waivers to accomplish these transitions.

DBHDD placed 26 individuals with DD from the State Hospitals during this time period. COMP waivers were used for these placements.

The placements from the State Hospitals were as follows: Gracewood (nine individuals); Georgia Regional Hospital Savannah (nine individuals); West Central Regional Hospital (three individuals); East Central Hospital (two individuals); and Central State Hospital (three individuals).

Two individuals returned to their family homes in Region 2 and Region 5. The other individuals were placed in residential settings, including one host home and one supported apartment, under the responsibility of eight community provider agencies.

Site visits were conducted to 22 individuals. Three individuals could not be visited because of logistical constraints. These individuals will be reviewed for the next report. One individual (N.J.) was deceased; the investigation conducted into his death is referenced below.

In order to learn more about the transition process and the coordination between the State Hospital and the community-based staff, including the provider agency, interviews were held, either in person or via conference call, with key clinical staff at Gracewood, Georgia Regional Hospital Savannah and West Central Regional Hospital (Columbus). Site visit observations and information from the documents reviewed were discussed during these interviews. As a result, it was confirmed that the transitions were structured to include the individual's participation in decision-making, including the decisions about the provider, the community residence and any housemates. "Trial" visits took place prior to discharge from the State Hospital. Hospital staff were involved in the training of the respective community residential provider agencies.

It is documented that support coordination was engaged prior to the transition, as required by DBHDD policy and by the terms of the Extension Agreement.

DBHDD's Transition Fidelity Committee approved each of the 26 placements completed in Fiscal Year 2016.

The Independent Reviewer's site visits highlighted several findings related to the post-transition outcomes. These findings included evidence of very positive community placements as well as areas requiring further attention.

The site visits revealed some positive situations. For example:

- Two young men with forensic histories (O.J. and N.C.) now live in a rural setting with access to community restaurants, stores and recreational activities. Although there are limits imposed by the court, staff have created age-appropriate opportunities for the men to be involved with local community resources that reflect their interests. Both men are engaged in work in local businesses. The men have a very active role in managing the household. There is evidence that they share in the decision-making and in responsibility for maintaining their private space, as well as the common areas. Staff have taught them anger management techniques and work closely with them in modeling problem resolution. As a result, there have not been any significant behavioral incidents.
- A.S., one of the last individuals admitted to Gracewood, had lived with her family for all of her life. She remained in Gracewood for five years and was placed, at age 25, in a host home. She now lives in the host home with a middle-aged woman who shares many of her interests and preferences. This well-maintained community residence is in a typical neighborhood. The neighbors are friendly; A.S. interacts with them and with the friends she has made at church. She attends church services weekly. In addition, A.S. has a firmly established routine of community-based experiences. She enjoys getting her hair done and her nails polished on frequently occurring occasions with her host home provider. When discharged from Gracewood, A.S. displayed several maladaptive behaviors that interfered with her ability to participate in community experiences. Within less than a year, those maladaptive behaviors have been eliminated and have been replaced by age-appropriate behavior. In addition, A.S., with assistance from her host home provider, has developed new skills that are leading to increased independence for her.
- R.D., a sixty-four-year-old man, grew up in Tennille, a small rural community. Reportedly, he lived alone in a dilapidated house with very little support. After being arrested on burglary charges, he was admitted to Central State Hospital. With the Court's approval, he was transitioned to a group home in

Tennille. Mr. D. lives with three other men. He is enormously proud of his new home and has taken great interest in helping with the grocery shopping and care of the expansive property. He has his own garden. Mr. D. continues to be rather solitary. He prefers to be in his own room, watching old western movies. However, with encouragement from staff, he is beginning to be more sociable and to express his interests and preferences. He has agreed to participate in activities at a local Senior Center. He recently surprised his staff by asking that they help him reconnect with his two sisters and his brother. This is the first time that Mr. D. has shown any interest in being reunited with his family.

The site visits also documented areas of concern for certain individuals. For example:

- C.B. is blind, deaf and exhibits behaviors of continuous movement of her arms and legs. She has not been cooperative during physician appointments and has refused to have her blood drawn and to complete a mammogram. Her last lab work up was on December 28, 2015. Blood work was ordered for July 2016 but was not completed due to the lack of cooperation. There have been no other attempts to draw blood. Her Depakote level has not been checked. Her last mammogram was in August 2014. An Ultrasound completed in October 2014, found fibrocystic disease and a possible lump in her left breast. Despite these health-related concerns, documented during the site visit on December 7, 2016, there was no evidence that any attempts had been made to develop a desensitization plan to help her more easily accept physical examinations.
- The day program setting in Augusta originally initiated for two individuals (B.C. and A.S.) raised concern during the recent site visits by the Independent Reviewer and her consultants. The day program activities were noted to lack intensity and relevance. The space was crowded and interfered with appropriate social interaction. The separate building that was used for the individuals with the Community Access Group lacked adequate space when everyone was present at mealtime. Furthermore, staff reported that the community activities were performed in groups of ten individuals. This is clearly a significant deterrent to meaningful integration with non-disabled individuals. B.C. no longer attends this program; A.S. has one-to-one staffing and is able to have more attention and community involvement.

B.C. was clear that he would like to work. However, the staff assigned to help him with this goal was not familiar with the principles or strategies of supported competitive employment. She did not understand that Mr. C. was more likely to obtain work through a network of established contacts at business sites than through the standard application/interview process.

- There appears to be a clear need to prioritize employment opportunities as part of the transition process. For example, F.W. was emphatic that he really wanted a job. He repeated this strong interest several times during the site visit. A follow-up call with his Intensive Support Coordinator indicated that there was an initial lack of clarity about F.W.'s job preferences. He is now being assisted with finding a job that matches his interests and contributes to his income.
- After a failed group home placement, one individual, W.D., was moved to a crisis respite home where he now awaits another residential placement. Apparently, although the men at the group home knew each other at the State Hospital, there were unanticipated difficulties regarding personal habits (level of noise in the house, etc.) once W.D. and his housemates began living together. It should be noted that the staff at the crisis respite house have developed an excellent rapport with Mr. D.; the habits that were problematic have now been improved. Nonetheless, the crisis respite home is not a permanent placement and he needs to be transitioned out of this short-stay crisis home; he has already lived in the crisis home since May 2016 – almost a year now – well above the 30-day parameter set forth in the Extension Agreement.

In addition to the concerns/issues noted above, the Independent Reviewer's Nurse Consultants noted the need to review informed consent for four individuals prescribed psychotropic medications.

As referenced earlier, the State has agreed to address any outstanding issue cited on the Issues Page of the individual reports and is not limiting its remedial efforts to those described in the examples cited above.

DBHDD has stated its intention to have the Director of the Office of Transitions have an active oversight role in the post-transition period. Although the transition process itself has been strengthened considerably, there does not appear to be the same level of consistent attention in the post-transition period. Each of the 25 individuals now has been assigned Intensive Support Coordination. The presence of that additional safeguard should result in remedial actions as necessary. Furthermore, the availability of Integrated Clinical Support Team resources should be valuable in developing proactive strategies for individuals with important health-related concerns such as C.B.

The Independent Reviewer will work with DBHDD to ensure that post-transition issues are addressed for the individuals referenced above, as well as for all others with outstanding issues.

7. Between July 1, 2016 and June 30, 2018, the State shall create and regularly update a planning list for prioritizing transitions of the remaining

persons with DD in the care of State Hospitals for whom a community placement is the most integrated setting appropriate to his or her needs. The State shall transition individuals on the list to the community at a reasonable pace. The State shall provide COMP waivers to accomplish these transitions.

DBHDD is in partial compliance with this Provision. There is a Planning List that is updated quarterly. The Independent Reviewer has examined the lists for the first two quarters of Fiscal Year 2017. In addition, trips have been made periodically to Gracewood to review the individuals on the Planning List. The Independent Reviewer's consultant, Dr. Patrick Heick, a Board Certified Behavior Analyst, was asked by the Director of the Office of Transitions to provide consultation on two individuals with challenging behaviors; they are awaiting placement on the Planning List. Dr. Heick complied with that request and his reports, including his recommendations for community-based supports, were shared with DBHDD.

As of March 1, 2017, there are 13 individuals on the Active Planning List. Support Coordinators have been assigned to these individuals.

As noted through this Report, the pace of transition requires serious attention if community-based options are to be made available to the 283 individuals with DD who are now institutionalized in State Hospitals.

8. Any individuals with DD remaining in the State Hospitals on June 30, 2018 shall be served in the most integrated setting appropriate to their needs.

This Provision is not yet in effect. DBHDD has informed the Independent Reviewer that they know of no individual who requires continued institutionalization once community supports are available. The Independent Reviewer asks this question each time she meets with the Director of the Office of Transition.

It is important to underscore, however, that the current pace of placements will not permit the implementation of integrated community placements for all currently institutionalized individuals by June 30, 2018. This likelihood requires discussion by the Parties, with input from the Amici, in order to determine whether there are changes that need to be made in the transition planning process and in the development of appropriate community options.

9. In determining whether to include an individual on the transition planning list, the State shall consider the recommendations of the individual's hospital treatment team and representatives from the Office of Transition Services who have experience with and knowledge of service delivery in the community, as well as the preferences of the individual, family member(s), and, as the individual indicates, other persons who are important to the individual and/or who may support the individual in the community.

Based on interviews with Hospital staff and with the Director of the Office of Transitions, this Provision is being implemented as written. Placement decisions have reflected the preferences of the individual and the family. These preferences include the location of the community residential setting and the choice of housemates. In addition, there is evidence that there has been outreach by the leadership of Gracewood to families who may have been reluctant to consider community placement so that their preferences can be carefully considered.

10. The State shall notify the Independent Reviewer within 7 days of when the State determines that any individual's most integrated setting is a State Hospital or any public or private skilled nursing facility, intermediate care facility for [individuals with] developmental disabilities, or psychiatric facility. In that instance, the State shall provide the Independent Reviewer with all information relied upon to make that determination so that the Independent Reviewer may conduct an independent assessment and report the assessment to the Parties. If the State makes no such determination, the expectation is that the individual will be placed on the transition planning list (referenced in Paragraph 7) for transition to a community home.

The Independent Reviewer has not been notified of any individual whose most integrated setting has been determined to be a State Hospital, skilled nursing facility, intermediate care facility or psychiatric facility. She asks that question when conducting site visits to the State Hospital settings where the individuals now live. DBHDD has informed the Independent Reviewer that they know of no individual who requires continued hospitalization once community supports are available.

11. The State shall form a transition planning team for every individual upon placement of that individual on the transition planning list. The transition planning team shall consist of the individual, hospital treatment team, case expeditor, support coordinator, Integrated Clinical Support Team, community service providers (once selected), the individual's family member(s), and, as the individual indicates, other persons who are important to the individual and/or may support the individual in the community. The transition planning team must identify (using protocols or criteria established by DBHDD that employ person-centered planning) the types of supports, services, adaptive equipment, supervision, and opportunities for community integration that will promote a successful transition for the individual. Prior to the individual's discharge, all contracted residential, day, clinical, medical and other providers (once selected) shall participate in the transition process and receive training in any procedures or protocols needed to serve the individual. All non-contracted providers who will be providing services to the individual may participate in the transition process and receive training in any procedures or protocols needed to serve the individual. The transition planning team shall verify that the supports, services, adaptive equipment, and supervision identified in the transition plan are arranged and in place at discharge.

At this time, DBHDD is in substantial compliance with this Provision. The transition process was confirmed in interviews with Hospital staff at Gracewood, Georgia Regional Hospital Savannah and West Central Regional Hospital (Columbus). In those interviews, Fiscal Year 2016 placements of individuals with DD were reviewed to confirm that the requisite participation occurred for each individual. In addition, during site visits to community settings, agency staff and staff supervisors were asked to confirm their role in the transition process, including the manner in which training about the individual's needs was provided to them. It was confirmed that the Hospital staff have provided on-site training at the new placement sites during the individual's trial visits.

12. The State shall monitor individuals during and after transition from the State Hospitals (a) to identify and address identified gaps or issues with services, supports, adaptive equipment, and clinical, medical, day, residential, or other providers to reduce the risk of admission to other institutional settings, deaths, or injuries, and (b) to track community integration and positive outcomes. The State shall conduct post-transition monitoring with, at a minimum, in-person visits by the individual's support coordinator within 24 hours of transition, at least once a week during the first month the individual is in the community, and at least monthly for the next three months.

As discussed above, although there is a schedule for post-transition monitoring and, based on the site visits conducted to 22 transitioned individuals, there appears to be substantial compliance with that required schedule, not all issues are being identified and addressed. DBHDD has not identified or addressed gaps or issues with services/supports to decrease risk of institutional admissions, death, or injury nor provided the Independent Reviewer with documentation that tracks community integration and positive outcomes. Documentation regarding gaps and unresolved issues, as well as the results of DBHDD's monitoring of community integration and positive outcomes, is necessary for assessment of compliance with this Provision. A list of documentation required for the Independent Reviewer's next Report will be provided to DBHDD. In addition, individuals known to have identified gaps in services/supports or adverse outcomes, such as jail, will be reviewed further to determine what actions have been taken on their behalf to ensure more positive outcomes.

13. The State shall operate a system that provides the needed services and supports to individuals with DD in the community through a network of contracted community providers overseen and monitored by the State or its agents. To identify, assess, monitor, and stabilize individuals with DD in the community who face a heightened level of risk due to the complexity of their medical or behavioral needs and/or their community providers' inability to meet those needs, the State shall maintain a High Risk Surveillance List as set forth in Paragraph 14, provide statewide clinical oversight as set forth in

Paragraph 15, and administer support coordination as set forth in Paragraph 16.

This over-arching Provision is discussed in more discrete detail below. Although there is progress in developing and implementing the policies and procedures necessary to identify, assess, monitor and stabilize individuals with DD who may be at heightened risk, at this time, it is premature to determine that the statewide system is in compliance with this overall requirement. The extensive fieldwork completed for this Report indicated gaps in the system of supports and oversight that have not been addressed sufficiently so that risk can be eliminated or minimized.

14.a. The State shall maintain a “High Risk Surveillance List” (the “List”) that includes all individuals with DD who have transitioned from the State Hospitals to the community during the term of the Settlement Agreement and this Extension Agreement. The List shall include each individual’s name, date of birth, provider(s), current address, region, HRST score, and a summary of critical incident reports and clinical findings that indicate medical or behavioral needs that may create a heightened risk for the individual. The State shall monitor the following information for all individuals on the List: critical incident reports, support coordination notes, and clinical assessments. The State shall update the List at least once per month.

DBHDD has issued a monthly High Risk Surveillance List (the “List”) since July 15, 2016. Unless an individual’s name is removed due to death, an out-of-state move, or other factors, these lists contain the names of individuals who transitioned from State Hospitals under the terms of the Agreement. As of this date, there are 409 individuals on the List. The List contains the birth date, provider agency, address, Region, most recent HRST score, and a very brief notation of critical incident reports and clinical findings.

There have been a number of errors identified in the information included in the List. The Director of Settlement Coordination is working with DBHDD staff to address this problem.

The Director of the Office of Health and Wellness has reported that critical incident reports, support coordination notes and clinical assessments are monitored routinely to provide relevant information and follow-up activity for each of the individuals on the List.

However, the review of a random sample of 53 individuals on the List, conducted by the Independent Reviewer’s Nurse Consultants between November 2016 and February 2017, documented that not all issues were identified for each individual.

There are outstanding issues referenced above in the discussion on Provision 6, as well as in the Independent Reviewer's Issues Pages; in addition:

- A nutritional evaluation was completed for J.H. in March 2016. The nutritionist's recommendations were implemented but he remains underweight. This unresolved issue was not identified in the List for October 2016, prior to the November 2016 site visit.
- D.L. receives three psychotropic medications from two physicians—her psychiatrist and her Primary Care Physician. There have not been quarterly assessments, AIMS testing or lab work to ensure that there are no untoward effects from the medications. Furthermore, eleven months ago, her ISP Team recommended two assessments; these have not been completed as of November 16, 2016. The List for October 2016 only indicated a change in address. As a result, we do not know if the psychotropic medications are working to treat the person's mental illness, or if there are any negative side effects of the medications.

14.b. Based on a records-based clinical review, uniform screening criteria, and other indications of heightened risk factors or concern, the State designated, and will continue to designate, certain individuals on the List as "High Risk." The State may escalate other individuals on the List to "High Risk" status in the following circumstances (or "escalation criteria"):

DBHDD uses color highlighting to identify the individuals who are determined to be Active or at High Risk. (The other individuals on the List have a white background.) As of February 23, 2017, there were 131 individuals designated as High Risk.

14.b.(i). Health-Related: an increase in HRST score; known emergency room visit or hospitalization; recurring serious illness without resolution; diagnosis with an episode of aspiration, seizures, bowel obstruction, dehydration, gastro-esophageal reflux disease (or GERD); or unmet need for medical equipment or healthcare consultation;

This information is not reported per se on the List. Although DBHDD reports that it uses this information in formulating its List, there is not enough specificity in the information included in the List itself to learn the exact reason for each individual's designation. DBHDD has been asked to be more precise about this information. The Director of Settlement Coordination is working to address this request.

More detailed information about the escalation status of the individual is included in the report on Oversight Activities. This reporting was done in July, August, September and December 2016, and in January and February 2017. DBHDD has been asked to consider consolidating these reports and the monthly List so that

tracking is more efficient. The Director of Settlement Coordination is working to address this request.

14.b.(ii). Behavioral: material changes in behavior, a behavioral incident with intervention by law enforcement, or functional or cognitive decline;

See above.

14.b.(iii). Environmental: threat of or actual discharge from a residential provider, change in residence, staff training or suitability concern, or accessibility issues that relate to the health or safety of the individual (including loss of involved family member or natural supports or discharge from a day provider).

See above.

14.b.(iv). Other: confirmed identification of any factor above by a provider, support coordinator, family member, or advocate.

See above.

14.c. For each individual on the List designated as “High Risk,” the State shall conduct the oversight and intervention outlined in the following subparts, until the State determines that the individual is stable and no longer designated as “High Risk.”

DBHDD provides an accounting of its interventions in its report on Oversight Activities. As referenced above, the accuracy and completeness of this reporting cannot be verified because of the omissions and variations in the information documented through the Independent Reviewer’s observations in the field. The Independent Reviewer is working with DBHDD to resolve any identified concerns.

For example:

- The February 2017 report on Oversight Activities indicated that J.W. had a behavioral episode involving law enforcement and that there needed to be follow-up to verify his compliance with medication and treatment. It was not reported that, in fact, there was a serious provider medication error and that J.W. did not receive his prescribed psychotropic medication. As a result, he became unstable behaviorally. There is also no mention that J.W. was placed in a crisis respite home on November 22, 2016, where he remains.

14.c.(i). Upon designation of an individual as “High Risk,” the State (through the Office of Health and Wellness) shall oversee that the initial responses to the identified risk(s) are completed and documented on the schedule set forth below, until the risk is resolved.

See above.

14.c.(i).(1). For an emergency, the provider shall initiate appropriate emergency steps immediately, including calling 911 or crisis services, and shall notify the individual's support coordinator, the Field Office, and the Office of Health and Wellness.

See above. This information is not provided. The Independent Reviewer will submit a list of the information needed to assess this provision.

14.c.(i).(2). For deteriorating health that is not imminently life-threatening, the provider shall respond and inform the individual's support coordinator within the first 24 hours. If the risk is not resolved within 72 hours, the support coordinator (or provider) shall notify the Field Office and the Office of Health and Wellness.

See above. This information is not provided.

14.c.(i).(3). For a health, behavioral, or environmental risk not resulting in destabilization of health or safety of the individual, the provider shall respond, inform the individual's support coordinator, and verify completion of responsive steps with the support coordinator no later than the support coordinator's next visit, or 30 days, whichever is sooner.

See above. This information is not provided.

14.(ii). If the risk is not resolved through the initial responses outlined in Paragraph 14.c.(i), the State shall conduct an in-person assessment of that individual in the time period indicated by the imminence and severity of the risk, but no later than 7 days after completion of the initial response.

See above. This information is not provided.

14.(ii).(1). The assessment shall be conducted by a Registered Nurse or other trained medical professional with an advanced medical degree and expertise in the area(s) of risk identified for the individual. The assessment shall include direct observation of staff who work with the individual to verify the staff's knowledge and competencies to implement all prescribed risk reduction interventions (e.g., meal time protocols or behavior support plans). The assessment shall, at a minimum, identify any concerns or issues regarding the individual's health or behavioral needs and identify necessary follow-up activities (with a schedule for completion) to address those concerns or issues.

See above. This information is not provided. It has been reported that the Regional Nurses are involved in the assessment process.

14.(ii).(2). The findings or the assessment, plus any follow-up activities and schedules, must be noted on the List and recorded in the individual's electronic record for access by the individual's support coordinator, community providers, the Integrated Clinical Support Team, Field Office staff, and the Office of Health and Wellness.

See above. This information is limited. Furthermore, Support Coordinators interviewed for the review of individuals for this Report were not aware of the High Risk Surveillance List per se and, although they may receive information from the Regional Nurse, did not realize that this was connected to an individual's designation as High Risk.

14.(ii).(3). If the assessment finds service delivery deficiencies that jeopardize the physical or behavioral health of an individual, the State shall require all provider staff (including direct support staff, house managers, Registered Nurses, Licensed Practical Nurses, and Certified Nursing Assistants) who are responsible for delivering services to that individual to receive competency-based training in that service delivery area (i.e., training through which the staff demonstrates successful service delivery in a scenario closely resembling one in which the services will be delivered).

See above. This level of detailed information is not provided.

14.(ii).(4). The State (through the Office of Health and Wellness) shall oversee that the follow-up activities identified in the assessment are completed and documented (and repeated or revised, as needed), until the risk is resolved.

See above. Although the monthly report on Oversight Activities provides a notation on the follow-up activities to be conducted and indicates completion by drawing a line through the specific activity, marking it resolved, the requirements of this Provision could not be independently verified due to the problems experienced with the High Risk List, as described above. The Independent Reviewer and the Director of Settlement Coordination are working together to resolve any concerns in preparation for the next Report to the Court.

In summary, based on the extensive fieldwork completed for this Report, the Independent Reviewer has recommended:

In collaboration with the Department of Justice and the Independent Reviewer, and with input from the Amici, DBHDD should revise the process for the High Risk Surveillance List so that its oversight is more clearly focused on individuals with an escalated need for clinical oversight due to their health or behavioral needs for

support. For example, there should be separate lists for individuals with health-related risks and those with behavioral challenges. The clinical skills required for staff who must support these two categories of individuals are different; they require distinct interventions.

All individuals in a specific residential setting should be reviewed as part of the High Risk List, not just those who have transitioned from a State Hospital under the terms of the Agreement. The failure to include everyone in a specific residential setting undermines the continuity and consistency of staff interventions and remedial strategies.

For example:

- T.McK. was included on the High Risk List. On the day of the site visit to her residence, it was observed that her housemate, M.L., was coughing extensively. (M.L. was not included on the List because she had not transitioned from a State Hospital.) After being advised by her Nurse Consultant, the Independent Reviewer promptly reported this incident. At her request, DBHDD's Division of Accountability and Compliance promptly initiated an investigation. Based on the investigators' findings, Immediate Jeopardy was reported for M.L.; the twelve staff responsible for her care/habilitation had different interpretations of her requirements for thickened liquids. As a result, she was at serious risk of aspiration.

In addition, DBHDD should strengthen the role of the Intensive Support Coordinator in the monitoring of the actions initiated under the High Risk Surveillance List. The Intensive Support Coordinator is the linchpin for the implementation of the Individual Support Plan. Therefore, the Intensive Support Coordinator should be a central figure in the planning and monitoring of any individual determined to be of High Risk. At this time, reportedly, the Intensive Support Coordinator may receive information about an individual on the High Risk Surveillance List but is not directly involved in planning and reviewing the interventions.

15.a. The State shall implement statewide clinical oversight that is available in all regions to minimize risks to individuals with DD in the community who face a heightened level of risk due to the complexity of their medical or behavioral needs, as indicated by one or more of the circumstances listed in Paragraph 14.b. (i)-(iv) above. This includes multidisciplinary assessment, monitoring, training, technical assistance, and mobile response to contracted providers and support coordinators who provide care and treatment to individuals with DD in the community.

DBHDD is building its capacity to implement statewide clinical oversight through its Office of Health and Wellness and its regional nursing staff. It also involves the clinical supports provided through CRA Consulting, a consultant group retained by DBHDD, and its subcontractor Benchmark.

A report has been provided to the Independent Reviewer that documents the utilization data for the Integrated Clinical Support Team (ICST) during the month of January 2017. This report indicates that there was ICST involvement in four State Hospital transitions and 25 assessments or technical assistance requests.

According to this same report, since the beginning of Fiscal Year 2017, there has been ICST involvement in 42 pre-transition consultations; 68 post transition/community consultations; and 25 responses to requests for technical assistance.

The Independent Reviewer has been informed that DBHDD plans to report more fully on its progress in meeting this obligation by June 30, 2017.

During their fieldwork, the Independent Reviewer's consultants confirmed the involvement of clinicians in conducting needed assessments for several individuals.

For example:

- Benchmark completed a nutritional assessment for R.McC. that recommended continuation of his diet of pureed food and nectar-thickened liquids.
- B.Co. has received several visits and assessments by Benchmark clinicians to evaluate the adequacy of his mealtime protocols and to train his staff in Range of Motion exercises and the use of a standing board.
- A Physical Therapist, an Occupational Therapist and a Behavior Specialist, who all work for Benchmark, have assessed B.H.. They have provided guidance to staff regarding her habilitation.

During the fieldwork, it was noted that the value of additional clinical support was recognized by Primary Care Physicians and by certain residential staff. However, not all requests have been complied with in a timely manner and not all assessment needs have been recognized.

For example:

- In August 2016, the Primary Care Physician requested physical therapy, occupational therapy, and nutritional and behavioral assessments in order to improve his care of M.O. As of January 13, 2017, these assessments had not been completed.
- Staff have observed that L.C. understands more than she is able to verbally express. For the past year, they have been attempting to have her assessed by

a Speech/Language pathologist who could determine whether there is a communication device that would enable her to better express her desires and needs. In spite of repeated requests, staff have not been able to obtain this assessment. (The new Intensive Support Coordinator has now promised to help.)

- During the past year, V.B. has gained thirty-eight pounds. There has not been a nutritional assessment since April 2014. The freezer was stocked with prepared foods and staff reported that they often eat at fast food restaurants. This issue was not identified on the High Risk Surveillance List and a request for an updated nutritional assessment was not made.

15.b. Statewide clinical oversight is provided through a team of registered nurses with experience caring for individuals with DD, behavioral experts (with a master's level degree in behavior analysis, psychology, social work, or counseling), occupational therapists, physical therapists, and speech and language therapists. This team includes personnel in the Office of Health and Wellness and each regional Field Office.

As stated above, DBHDD has organized its statewide clinical oversight through its Office of Health and Wellness, its Regional Field Offices and its contracts with clinical consultants, such as CRA and Benchmark.

Further analysis is dependent on the information provided by DBHDD no later than June 30, 2017.

15.c. No later than March 31, 2017, the State shall develop a protocol that includes the following components:

This protocol has not been issued; it is expected by March 31, 2017.

15.c.(i). The protocol shall state the responsibilities and timeframes for contracted providers and support coordinators to engage the statewide clinical oversight team to assist in addressing issues that place individuals at heightened risk. The protocol must include the following schedule for completion and documentation of the responses to the identified risk(s), until the risk is resolved:

See above.

15.c.(i).(1). For an emergency, the provider shall initiate appropriate emergency steps immediately, including calling 911 or crisis services, and shall notify the individual's support coordinator, the Field Office, and the Office of Health and Wellness.

See above.

15.c.(i).(2). For deteriorating health that is not imminently life-threatening, the provider shall respond and inform the individual's support coordinator within the first 24 hours. If the risk is not resolved within 72 hours, the support coordinator (or provider) shall notify the Field Office and the Office of Health and Wellness.

See above.

15.c.(i).(3). For a health, behavioral, or environmental risk not resulting in destabilization of health or safety of the individual, the provider shall respond, inform the individual's support coordinator, and verify completion of responsive steps with the support coordinator no later than the support coordinator's next visit, or 30 days, whichever is sooner.

See above.

15.c.(ii). The protocol shall determine the circumstances when, and set forth mechanisms through which, the statewide clinical oversight team receives electronic notification when individuals with DD in the community face a heightened level of risk, which may include the circumstances listed in Paragraph 14.b. (i)-(iv). The protocol shall set forth the timeframes for the State's review and response and shall require that the State's response be based on the imminence and severity of the risk.

See above.

15.d. No later than June 30, 2017, the State shall train its contracted providers and support coordinators on the protocol developed under Paragraph 15.c.(i), how to recognize issues that place an individual at heightened risk (including through critical incident reports and the State's support coordination tool), and how to request consultation and/or technical assistance from the Field Offices and the Office of Health and Wellness. The protocol shall become effective no later than July 1, 2017.

Implementation of this Provision is dependent on the issuance of the protocol due no later than March 31, 2017.

15.e. The State shall provide or facilitate consultation (by phone, email, or in person), technical assistance, and training to contracted providers and support coordinators who serve individuals with DD in the community who face a heightened level of risk due to the complexity of their medical or behavioral needs. No later than June 30, 2017, the State shall provide a centralized and continuously monitored hotline and email address to receive requests for consultation and/or technical assistance. The State shall assess,

assign for response, and respond to such requests as indicated by the nature, imminence, and severity of the need identified in the request.

The hotline and email address have not yet been established. They will be reviewed in the next Report to the Court.

15.f. No later than June 30, 2017, the State shall have medical and clinical staff available to consult with community health practitioners, including primary care physicians, dentists, hospitals, emergency rooms, or other clinical specialists, who are treating individuals with DD in the community who face a heightened level of risk due to the complexity of their medical or behavioral needs and/or to provide assistance to community providers and support coordinators who report difficulty accessing or receiving services from community healthcare practitioners.

The timeframe allowed for this Provision is not yet finished.

DBHDD has established some capacity relevant to this requirement. Consultation is available through highly respected physicians in Region 4 who used to practice at Southwestern State Hospital; the Office of Health and Wellness; and clinical consultants, such as CRA and Benchmark.

However, further analysis of compliance with this Provision depends on the receipt of additional information and data. There needs to be evidence of statewide availability as well as information about specific individuals with DD who have benefitted from this clinical support and documentation of the outcomes resulting from the clinical intervention.

The Independent Reviewer would expect a full accounting of the implementation of this Provision for her next Report.

16.a. No later than July 1, 2016, the State shall revise and implement the roles and responsibilities of support coordinators, and the State shall oversee and monitor that support coordinators develop individual support plans, monitor the implementation of the plans, recognize the individual's needs and risks (if any), promote community integration, and respond by referring, directly linking, or advocating for resources to assist the individual in gaining access to needed services and supports.

DBHDD did not fully meet this deadline. Policies and revised protocols were published but training was not completed until the end of July 2016. Subsequent information from DBHDD has indicated the continuation of relevant training. Anecdotal information from Support Coordinators has confirmed that the training has been responsive to their knowledge and performance competencies.

The Independent Reviewer has recommended that all Support Coordinators be trained in the principles and practices of Social Role Valorization. The substance of this training will be especially instrumental in the promotion of community integration and the development of individualized strategies to promote independence and community membership.

- During the fieldwork for this Report, there was a particularly striking example of an Intensive Support Coordinator's advocacy. Despite repeated recommendations by the Primary Care Physician, E.S.'s mother refused to permit her daughter to undergo a colonoscopy. The colonoscopy was imperative due to E.S.'s long history of constipation and the ineffectiveness of standard remedies. The Intensive Support Coordinator, who works for Compass, reported the mother to Adult Protective Services, alleging neglect.

The information required for Provision 16.c., expected by June 30, 2017, is necessary before an assessment can be made regarding DBHDD's oversight of support coordination. The explicit outcomes from the annual review of data are essential to any determination of compliance.

16.b. No later than July 1, 2016, the State shall require all support coordinators statewide to use a uniform tool that covers, at a minimum, the following areas: environment (i.e., accessibility, privacy, adequate food and clothing, cleanliness, safety), appearance/health (i.e. changes in health status, recent hospital visits or emergency room visits), supports and services (i.e., provision of services with respect, delivery with fidelity to ISP, recent crisis calls), community living (i.e. existence of natural supports, services in most integrated setting, participation in community activities, employment opportunities, access to transportation), control of personal finances, and the individual's satisfaction with current supports and services. The support coordination tool and the guidelines for implementation shall include criteria, responsibilities, and timeframes for referrals and actions to address risks to the individual and obtain needed services or supports for the individual.

Although the timeline was not met, DBHDD has required the use of a uniform tool. The report to be issued by June 30, 2017 will be important to an assessment of the effectiveness of this new tool in ensuring positive outcomes and minimizing adverse risks. It will be essential that DBHDD provide data to demonstrate the effectiveness of the tool in problem resolution and the improvement of outcomes.

This assessment information will be included in the next Report to the Court.

16.c. At least annually, the State shall consider the data collected by support coordinators in the tool and assess the performance of the support coordination agencies in each of the areas set forth in Paragraph 16.a.

DBHDD has not yet reported on this requirement. The report is expected by June 30, 2017. It is essential information for any analysis by the Independent Reviewer about the competencies and performance of Support Coordinators assigned to individuals in the Target Population.

The Independent Reviewer intends to more fully discuss the implementation of the requirements for Support Coordination in her next Report. The changes in Support Coordinators, due to the Intensive Support Coordination initiatives, made it impractical to attempt to analyze the quality of Support Coordination at this time. Support Coordinators were just beginning to become familiar with the people on their caseloads and had not participated in Individual Support Plan meetings to the extent required for a thorough analysis of their performance.

16.d. No later than June 30, 2017, the State shall provide support coordinators with access to incident reports, investigation reports, and corrective action plans regarding any individual to whom they are assigned. Support coordinators shall be responsible for reviewing this documentation and addressing any findings of gaps in services or supports to minimize the health and safety risks to the individual. (Support coordinators are not responsible for regulatory oversight of providers or enforcing providers' compliance with corrective action plans.)

Completion of this requirement is not yet due. DBHDD will be asked to provide specific data regarding the results of any actions taken by Support Coordinators once this information is provided to them.

16.e. The caseload for support coordinators shall be a maximum of 40 individuals. The caseload for intensive support coordinators shall be a maximum of 20 individuals.

Despite its efforts, DBHDD is not in compliance with the requirements of this Provision. It was reported to the Independent Reviewer that, as of March 1, 2017, one agency exceeds the requisite caseload size. DBHDD's Division of Performance Management and Quality Improvement offered technical assistance to this agency. Progress was made but compliance was not achieved. In January 2017, the Director of the Division of Developmental Disabilities met with the State Director of this agency to review the requirements related to caseload size. DBHDD continues to monitor this agency's performance.

The three new support coordination agencies that began operation in Georgia during the second quarter of Fiscal Year 2017 have remained in compliance with the requisite caseload size for each Support Coordinator since initiating their services.

16.f. Support coordinators shall have an in-person visit with the individual at least once per month (or per quarter for individuals who receive only supported employment or day services). Intensive support coordinators shall

have an in-person visit with the individual as determined by the individual's needs, but at least once per month. Some individuals may need weekly in-person visits, which can be reduced to monthly once the intensive support coordinator has determined that the individual is stable. In-person visits may rotate between the individual's home and other places where the individual may be during the day. Some visits shall be unannounced.

DBHDD has provided documentation regarding the visits of Support Coordinators to individuals with DD who have transitioned from the State Hospital. The documentation is for December 2016 and January 2017.

In order to assess whether Support Coordinators conducted at least one monthly visit to each of these individuals, the names on the two lists were compared.

The December list contained 373 unduplicated names. (This is not a complete number. As of February 21, 2017, according to DBHDD, there should be 404 individuals now receiving intensive support coordination, the number of people who transitioned from State Hospitals since July 2010 and remain in community residential settings.)

Each of the 373 individuals had at least one monthly visit. Nineteen individuals (5%) had two visits.

January's list included 389 unduplicated names. Each of the individuals on this list received at least one monthly visit, primarily at their residences. Twenty-four individuals (6%) had two visits in January. Review of the January list indicated that 16 individuals seen in December were not seen at all in January; their names were not included in the January list. This group included individuals who transitioned in Fiscal Year 2016.

Due to the inconsistent information contained in the documentation provided by DBHDD, this Provision cannot be found to be in compliance. Additional review and reconciliation of the facts is required. It should be emphasized that the number of visits is to be determined by the individual's needs. The reduced caseload size was intended to enable the intensity of support coordination required to ensure the health, safety, habilitation and community integration of each individual.

16.g. For individuals with DD transitioning from State Hospitals, a support coordinator shall be assigned and engaged in transition planning at least 60 days prior to discharge.

The Independent Reviewer was provided with the dates that support coordination was assigned to 12 individuals who transitioned to the community between August 1, 2016 and December 31, 2016. The range of assignment dates was from three months to thirteen months. The median length of assignment was eight months.

This Provision will continue to be tracked through the remainder of the Fiscal Year. At this point, it appears that DBHDD is complying with the requirement to assign support coordination during the transition planning period.

17.a. Crisis respite homes provide short-term crisis services in a residential setting of no more than four people.

Each of the crisis respite homes was visited in preparation for this Report in order to confirm the number of individuals in residence. The nine crisis respite homes comply with this requirement regarding size. There were no more than four individuals in any of the homes. However, as discussed below, the crisis respite homes are not being used only for short-term crisis services. Individuals have lengths of stay that greatly exceed this expectation.

For example, according to documentation provided by DBHDD for January 2017, there were 19 individuals with lengths of stay greater than 30 days. One individual, C.B., has been in a crisis respite home since June 2013—nearly four years. Another individual, M.W., has been in the crisis home since August 2014; no provider has yet been identified.

17.b. Individuals living in crisis homes shall receive additional clinical oversight and intervention, as set forth in Paragraph 15.

As explained in his report regarding his review of the nine crisis respite homes, the Independent Reviewer's consultant, Patrick Heick, found limited oversight and intervention by clinicians with expertise in behavioral analysis and behavioral programming.

He reviewed 15 individuals who had been in the crisis homes more than 30 days. In fact, five individuals had been there for more than two years.

Of the 15 individuals reviewed:

- Fourteen individuals (93%) engaged in behaviors that could result in injury to self or others;
- Fifteen individuals (100%) engaged in behaviors that disrupted the environment;
- Thirteen individuals (87%) engaged in behaviors that negatively impacted their quality of life and greater independence;
- Six individuals (40%) engaged in behaviors that impeded their ability to access a wide range of environments; and
- Seven individuals (47%) engaged in behaviors that impeded their ability to learn new skills.

Despite these behavioral histories, only six of the 15 individuals (40%) reviewed had Behavior Support Plans; only four of those Behavior Support Plans were developed, implemented and monitored by a Board Certified Behavior Analyst. Nine of the individuals (60%) had a more limited Behavior Intervention Plan. None of these Plans were developed, implemented or monitored by a Board Certified Behavior Analyst.

The absence of this specialized clinical experience and expertise was reflected in the concerns noted about the adequacy of training. Only nine of the 15 individuals reviewed had staff who were all trained on the agency's crisis prevention and intervention curriculum. There was no evidence that all staff had been trained in the Behavior Intervention Plan or the Behavior Support Plan for any of the individuals reviewed.

Certainly, DBHDD should minimize or eliminate the need for lengthy stays at a crisis respite home. However, if such a stay is necessary, the system should be able to provide functional assessments, psychiatric assessments, environmental assessments and behavioral assessments that will ensure a thoughtfully individualized plan for a community placement that will enable the individual to be successful. The completion of such assessments and the development of a comprehensive individualized plan may be easier to accomplish in the structured setting of a crisis respite home. The fact that this is not being done, as evidenced by Dr. Heick's reports, is a missed opportunity to improve outcomes.

DBHDD has asked to speak again with Dr. Heick to discuss his observations. The conference call will be scheduled as soon as possible.

17.c. The State shall track the length of stay in crisis respite homes, and, on a monthly basis, shall create a list of individuals who are in a crisis respite home for 30 days or longer, the reasons why each individual entered the crisis respite home, the date of entry to the home, and the barriers to discharge. The State shall provide these monthly lists to the United States and the Independent Reviewer.

DBHDD has submitted the required lists. Each list contains the information required by this Provision.

Furthermore, there is evidence that DBHDD has been working diligently to identify options and place certain of the individuals with extended lengths of stay into appropriate community-based residential settings.

For example:

- F.D., who was in a crisis respite house since June 2014, was transitioned to a community residence on February 15, 2017.

- S.G., admitted to a crisis respite home in December 2012, is scheduled to move to a supported apartment.
- C.Ba., admitted to crisis respite in August 2015, has been transitioned to the community agency that worked with her in the crisis setting.

In order to help identify and expedite relocation to community-based residential settings, DBHDD has awarded a contract for Intensive Support Coordination in the crisis respite homes. This contract will become effective on April 1, 2017.

Unfortunately, the limited availability of providers with the requisite skills in behavior intervention has delayed community placements from the crisis respite homes and contributed to a longer than desired length of stay in what was designed to be a short-term setting. As noted above, in January 2017, there were 19 individuals who have been in a crisis respite home for more than 30 days.

17.d. The State shall assess its crisis response system for individuals with DD in the community, including the use of crisis respite homes and alternative models for addressing short-term crises. Following that assessment, and no later than June 30, 2017, the State shall meet with the Independent Reviewer, the United States, and the Amici to discuss the State's plans for restructuring the crisis system, including methods of minimizing the occurrence of individuals leaving their homes during crisis and limiting individuals' out-of-home lengths of stay at crisis respite homes.

There has been no information provided about the status of the assessment and any potential plans for restructuring the crisis system. A date for the required meeting with the United States, the Amici and the Independent Reviewer should be scheduled promptly.

18. Within six months of the Effective Date of this Extension Agreement, the State shall develop and implement a strategic plan for provider recruitment and development that is based on the needs of individuals with DD in the State Hospitals and in the community. The plan shall identify the service capacity needed to support individuals with DD and complex needs in community settings. The plan shall take into account services and supports that promote successful transitions and community integration. The State shall use the plan to identify and recruit providers who can support individuals with DD and complex needs in community settings.

DBHDD's "Provider Development and Recruitment Plan" was issued on November 28, 2016.

The Independent Reviewer has commented on this Plan in two discussions with DBHDD. Although the planned actions are reasonable, they require more detail

about implementation. The timelines as now established are well into the final stages of the Agreement's expected timeframe. The Independent Reviewer has suggested that DBHDD establish periodic benchmarks to guide implementation; progress in reaching those benchmarks should be reported on a specific schedule. In addition, it was recommended that there be a delineation of recruitment efforts on a Regional basis, given the inherent differences in the availability of provider agencies and clinical resources throughout the State.

DBHDD has reiterated its commitment to recruit new providers from outside of Georgia; enhance the skills of existing providers; and identify potential provider agencies currently working with other groups of individuals (e.g., the elderly, individuals with a physical disability). DBHDD has also expressed its interest in moving away from a group home model so that more integrated settings are available to individuals with DD.

The Provider Council described in the Plan has not yet convened. Its membership is being finalized; the first meeting is expected to occur in March 2017.

19. The State shall create a minimum of 100 NOW waivers and 100 COMP waivers between July 1, 2015 and June 30, 2016; 100 NOW waivers and 125 COMP waivers between July 1, 2016 and June 30, 2017; and 100 NOW waivers and 150 COMP waivers between July 1, 2017 and June 30, 2018, for individuals with DD who are on the waitlist to prevent admission to a public or private skilled nursing facility, intermediate care facility for [individuals with] developmental disabilities, or psychiatric facility.

As reported previously, DBHDD met the deadline and established 100 NOW waivers and 100 COMP waivers between July 1, 2015 and June 30, 2016. The Independent Reviewer's next Report will confirm whether or not the obligation for the requisite 225 waivers for the period of July 1, 2016 until June 30, 2017 was met.

20. The State shall implement an effective process for reporting, investigating, and addressing deaths and critical incidents involving alleged criminal acts, abuse or neglect, negligent or deficient conduct by a community provider, or serious injuries to an individual.

At this time, based on documentation and discussion with DBHDD and other stakeholders, there is evidence that the reporting and investigation processes are being examined carefully and that actions either have been planned or initiated to strengthen them so that adverse outcomes are minimized to the greatest possible extent. In order to ensure thoroughness and objectivity, DBHDD has assumed responsibility for all mortality investigations. The Columbus Organization also reviews the deaths of all individuals with DD who were transitioned from State Hospitals under the Agreement.

DBHDD has retained consultants to help them with the redesign of its investigation management system and to provide training/technical assistance to the staff of the Office of Incident Management Investigations (OIMI).

There are positive examples to report:

- The Independent Reviewer and her Nurse Consultant were involved directly in the investigation of an incident that was reported after their site visits. The investigator in this case was knowledgeable, well prepared and professional in his demeanor. A consultant with clinical credentials provided important expertise. This investigation resulted in a finding of Immediate Jeopardy and the implementation of prompt remedial action to reduce the risk of aspiration. (It was of significant concern, however, that this problematic situation was discovered by the Independent Reviewer and not by the Support Coordinator responsible for her health/safety.)
- For another adverse incident, the Critical Incident Report and the two investigations for a deceased individual (N.J.) were reviewed. According to the external investigation by Health Management Associates, this individual's death was "sudden, unexpected, and was most likely unpreventable. Although Mr. J. had very recently (seventeen days before) been discharged from ECRH [Gracewood], there was no evidence found in the records reviewed to suggest that his move to the community had anything to do with the circumstances surrounding his death." Nonetheless, DBHDD's investigation cited two employees at the community residence for failing to perform CPR in a timely manner prior to the arrival of Emergency Medical Services personnel. This deficiency needs to be addressed in this home and systemically.

However, given the current stage of development and implementation, the system cannot be characterized now as either effective or complete. It is known, for instance, that a significant number of investigations (39%), as of December 2016, are not completed within the thirty-day timeframe. The delayed investigations primarily appear to be those conducted by the provider agencies. DBHDD completed 87% of its investigations on time; the providers completed their reports within thirty days for only 55% of the investigations.

The review of investigations for this Report indicated that there is significant variability in the thoroughness and analysis of the investigations. In addition, there appears to be incomplete knowledge about specific incidents across the Divisions of DBHDD. For example, as cited above, the Office of Health and Wellness did not include the serious medication error in its reporting about J.W.'s behavioral episode. At this time, the investigation is not completed and there is no information as to whether the nurse's failure to meet professional standards was reported to the Board of Nursing.

The investigation process will continue to require review. It is imperative that the investigation process and its findings result in remedial measures whenever a deficiency is identified. The remedial measures should be applied broadly, not just at the site of the investigation. Otherwise, any lessons learned through the investigation process will not be applied and the system of community supports will not be strengthened.

21. The State shall conduct a mortality review of deaths of individuals with DD who are receiving HCBS waiver services from community providers according to the following:

DBHDD is conducting mortality reviews as required by this Provision. However, there are areas of incomplete or inadequate implementation.

21.a. An investigation of the death shall be completed by an investigator who has completed nationally certified training in conducting mortality investigations, and an investigation report must be submitted to the Office of Incident Management and Investigations (“OIMI”) within 30 days after the death is reported, unless an extension is granted by the State for good cause. The investigator must review or document the unavailability of: medical records, including physician case notes and nurses’ notes (if available); incident reports for the three months preceding the individual’s death; the death certificate and autopsy report (if available); and the most recent individual support plan. The investigator may also interview direct care staff who served the individual in the community. The investigation report must address any known health conditions at the time of death, regardless of whether they are identified as the cause of death. The State shall conduct a statistically significant sample of “look-behind” investigations to assess the accuracy and completeness of provider-conducted investigations of deaths, and the State shall require providers to take corrective action to address any deficiency findings.

The credentials of DBHDD’s investigators have been reviewed. They have been trained under the auspices of LRA, a nationally recognized trainer in the investigation of critical incidents, including deaths.

In order to ensure that all investigators have the requisite credentials, DBHDD has assumed the responsibility for investigating all deaths of individuals with DD. Provider agencies no longer conduct these investigations.

As referenced above, the 30-day requirement for the completion of investigations has not been met.

The Independent Reviewer has not been able to complete a statistically significant review of the mortality review process for this Report. The lack of complete

documentation and the delay in the completion of investigations has complicated this task. For example:

- P.F., who was identified for review due to her transition date from the State Hospital, died on November 15, 2016. Although the Critical Incident Report is in her file, the investigation report is not. Bowel obstruction was reported as a factor in her death. The Corrective Action Plan is listed as “Pending.” Four months is far too long for remedial action to be addressed throughout the system as a whole, given the citation of bowel obstruction as a factor. Reformed practices might very well be instrumental in the prevention of a similar risk to others.
- K.H. died on October 4, 2016. The investigation is complete but the Corrective Action Plan is “In Progress.”
- L.D. died on September 7, 2016. His investigation is complete but the Corrective Action Plan is “In Progress.”

Each of these individuals was selected as part of the random sample to be reviewed for this Report. It is of very serious concern that these investigations have not been completed and that any ongoing risks have not been identified and addressed.

21.b. The Community Mortality Review Committee (“CMRC”) shall conduct a mortality review of all unexpected deaths, any expected death that is identified by the State’s Medical Director or OIMI Director, and any expected death where a condition cited as a cause of death was identified fewer than 30 days before the death. The mortality review shall be completed within 30 days of completion of the investigation and receipt of relevant documentation. The minutes of the CMRC’s meetings will document its deficiency findings and its recommendations, if any.

The Community Mortality Review Committee membership was revised. It meets to review the deaths and to discuss/approve recommendations. Minutes are shared with the Department of Justice and the Independent Reviewer.

Reportedly, the Committee is up to date with its review of death investigations. However, as noted above, these investigations are not always completed in a timely manner. The Independent Reviewer has requested that she be allowed to observe a Committee’s meeting so that she can more fully describe their proceedings. The minutes from the meetings are concise and do not provide very much detail about the deliberations.

22. The State shall require providers to take corrective actions in response to the CMRC’s deficiency findings, and the State shall implement a system that records the deficiencies identified in investigative reports and mortality

review and that tracks the corrective actions plans, including the community providers' timely completion of required actions. The State shall separately track the CMRC's recommendations.

As referenced above, there is a tracking process but there are delays in the completion and filing of relevant information. It is not possible to report that the requirements of this Provision have been met. There is a semi-annual report due by June 30, 2017.

23. The State shall generate a monthly report that includes each death since July 1, 2015; any corrective action plan(s) resulting from the death; the community provider(s) involved; the corrective action taken by the community provider, as verified by the State; and any disciplinary action taken against the provider(s) for failure to implement corrective action (if applicable). The State shall provide the report to the United States and the Independent Reviewer.

DBHDD issues this information to the Department of Justice and to the Independent Reviewer on a monthly basis.

The Independent Reviewer has requested that changes be made to the online reporting so that documentation added at a later date can be identified more easily. The Director of Settlement Coordination is working to resolve this difficulty in accessing information.

Based on the lack of complete and timely information, this Provision has not been fully complied with at this time.

24. The State shall collect and review its data regarding deaths of individuals with DD in the community to identify systemic, regional, and provider-level trends, if any. The State shall consider its mortality data, publicly available national mortality data, and recommendations from the CMRC. The State shall develop and implement quality improvement initiatives, including those to reduce mortality rates for individuals with DD in the community, as determined by the State from its assessment of mortality data and trends.

This Report is due by June 30, 2017. A spreadsheet with a summary of the data is to be provided as well as an analytical report summarizing its Quality Improvement Plans, actions and results.

25. At least annually, the State shall publish a report on aggregate mortality data including the number of deaths, causes of death, classification of death, and trends.

DBHDD's second Annual Report for Fiscal Year 2015 was issued on August 16, 2016.

The Independent Reviewer provided comments at that time. It was recommended that DBHDD, in the future, include the outcome of any remedial action taken in the previous year as a result of its analysis and that the mortality rate from the deaths of individuals with DD residing in the State Hospitals be included.

26. DBHDD shall identify and attempt to address barriers to obtaining hospital records for the purpose of reviews of deaths of individuals with DD in the community.

DBHDD has not provided any information regarding this Provision.

27. The State shall develop a protocol for determining which deaths of individuals with DD in the community should result in an autopsy. The protocol (as may be amended) shall be applied to all deaths that occur after the protocol is effective. The State shall provide a copy of the protocol to the Independent Reviewer, the United States, and the Amici for comment before it is finalized.

DBHDD has not submitted this protocol to the Independent Reviewer or to the United States.

28. By June 30, 2017, the State shall require all of its support coordination agencies and contracted providers serving individuals with DD in the community to develop internal risk management and quality improvement programs in the following areas: incidents and accidents; healthcare standards and welfare; complaints and grievances; individual rights violations; practices that limit freedom of choice or movement; medication management; infection control; positive behavior support plan tracking and monitoring; breaches of confidentiality; protection of health and human rights; implementation of ISPs; and community integration.

This Provision is not yet due to be completed.

29. The State shall provide to the Department of Justice copies of the waiver assurances that the State submits to the Center for Medicare Services ("CMS"). Quality reviews, which are used to report waiver assurances as required by CMS, shall include, at a minimum, (a) data derived from face-to-face interviews of the individual, and, as indicated and available, relevant professional staff and other people involved in the individual's life, (b) assessments, and (c) clinical records. Quality reviews shall be conducted on a sample of individuals and providers in each region. The sampling shall be informed by data from DBHDD's incident management system, mortality reviews, and other indicators overseen by the Office of Health and Wellness. At least annually, the State shall consider these quality reviews, and shall either develop and implement quality improvement initiatives or continue

implementation of existing quality improvement initiatives, as determined by the State from its assessment of the quality reviews.

No documents have been received that relate to this Provision. The Independent Reviewer has requested a schedule for the completion of the Quality Reviews and the subsequent analysis by DBHDD.

PROVISIONS RELATED TO INDIVIDUALS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS

As referenced earlier, for purposes of Paragraphs 31 to 40, the “Target Population” includes the approximately 9,000 individuals with SPMI who are currently being served in State Hospitals, who are frequently readmitted to the State Hospitals, who are frequently seen in emergency rooms, who are chronically homeless, and/or who are being released from jails or prisons. The Target Population also includes individuals with SPMI and forensic status in the care of DBHDD in the State Hospitals, if the relevant court finds that community services are appropriate, and individuals with SPMI and a co-occurring condition, such as substance abuse disorders or traumatic brain injuries. Extension Agreement Paragraph 30.

In order to more fully assess the opportunities for access to Supported Housing by all members of the Target Population, the Independent Reviewer has engaged three consultants to assist her. The consultants, Martha Knisley, Beth Gouse and Angela Rollins, met with DBHDD’s leadership staff in January 2017 to obtain needed information to prepare preliminary reports and to plan the next stages of independent review.

As set forth below, there are two primary areas of review planned for the next Report to the Court. DBHDD has been informed of these plans and is fully cooperating with the Independent Reviewer. It has been agreed that there will be periodic and ongoing discussions over the next few months, beginning in April 2017, in order to ensure that DBHDD is informed of any findings and recommendations. In addition, DBHDD has been encouraged to provide proactively whatever information it considers germane to the analysis under way.

The first area of review focuses on whether all members of the Target Population have access to Supported Housing, as needed or desired by the individual. In particular, the subject of the review includes individuals at risk of homelessness, individuals with repeated admissions to the State Hospitals, individuals with repeated contact with emergency rooms, and individuals with forensic status who could be discharged with appropriate supports.

Further review and verification of the referral and linkage process is needed to determine its sufficiency. The data received to date do not fully reveal the extent to which needs are assessed of those individuals in the Target Population who are being released from jails and prisons, discharged from hospitals, frequently seen or discharged from emergency rooms, and who are chronically homeless or being discharged from shelters. Also, it is not yet clear if individuals who are assessed as being in need of Supported Housing are able to access it in a timely manner. These outstanding issues implicate the efficacy of the assessments, the availability of needed services, and housing capacity.

Over the past six years, the number of individuals who have accessed supported housing from psychiatric hospitals, emergency rooms, jails and prisons has been very low.

The second area of inquiry is centered on whether the individual is linked in a timely manner to adequate and appropriate community-based mental health and other needed services, as determined by their interest and level of need for support. For example, as documented in DBHDD's own studies of effectiveness, the referral of an individual to an ACT team may be the key to successful community living, with an accompanying reduction of hospital admissions and other poor outcomes. The process and timing of referral and linkage to supported housing and ACT has emerged as a repeated concern in the review of individuals discharged from the State Hospitals to shelters.

The review of discharges from State Hospitals has documented increased efforts to locate housing alternatives to shelters. Nonetheless, some of these alternatives include congregate temporary housing that is not integrated community housing. Moreover, discharge planning for some individuals only begins in earnest several days prior to discharge. As a result, the time for actively engaging the individual in discharge planning is limited and this significantly decreases the ability of the system to link the person to needed community resources like supported housing and ACT.

It is critical to engage individuals in discharge planning early in the period following admission to the Hospital.

The discharge planning process for individuals on forensic status is even more challenging because of: the additional layer of court involvement and related Hospital requirements; potential barriers to placement due to specific underlying charges; and recovery planning forms that are so lengthy, unwieldy, and repetitive that it is challenging to develop and implement interventions that are individualized, targeted towards transition and skills-based. Despite this, most documentation reflects considerable efforts by staff to move individuals towards discharge. What is not always evident is that interventions change when the individual is not progressing towards discharge or that the interventions focus on the skills necessary for successful outplacement. As a result, movement towards discharge is often slower than it should be for these individuals who, even if not discharge-ready, have the capacity to be more fully engaged in discharge planning.

Findings from an analysis of these two areas of potential concern will be critical to any determination of compliance with the relevant Provisions in the Agreement, such as Provisions 38 and 40.

The work done to date by the Independent Reviewer and her consultants has indicated that DBHDD might consider the following actions to measure outcomes, as it continues to work to comply with Provisions 38 and 40:

- DBHDD should ensure and document efforts that all individuals from the State Hospitals with SPMI are being offered the choice and the support to access integrated community settings instead of congregate or temporary settings such as nursing homes, motels, hotels, shelters, or other venues for people who are homeless.
- DBHDD should ensure and document that the 30-day, 90-day and 180-day readmission rates to its State Hospitals have decreased over time and have been minimized.
- DBHDD should ensure and document that those in a State Hospital who are in need of supported housing, ACT, or other community mental health services are promptly assessed and linked to supported housing, ACT or other needed community mental health services prior to discharge. This may require expediting the identification of and linkage to community services earlier in the discharge planning process. This earlier engagement will be especially important for individuals who have experienced difficulty in forming trusting relationships.
- DBHDD should document that all individuals with SPMI who need supported housing are offered that choice; this includes people referred from State Hospitals, jails, prisons, homeless shelters and other such settings. In order to accomplish this, DBHDD should document its comprehensive and effective outreach and in-reach efforts to find all individuals included in the above definition of the Target Population.

The reports from the Independent Reviewer's consultants Dr. Beth Gouse and Martha Knisley are attached. They provide additional information and analysis about the provision of Supported Housing to all members of the Target Population.

Specific Provisions

31. Bridge Funding and the Georgia Housing Voucher Program ("GHVP") are specific types of housing assistance that may include the provision of security deposits, household necessities, living expenses, and other supports during the time needed for a person to become eligible and receive federal disability or other supplemental income.

DBHDD has consistently defined these resources as described above. Where appropriate, individuals have transferred from the Georgia Housing Voucher Program to other sources of funding. DBHDD's expertise in this regard has helped to maximize the use of housing resources.

32. By June 30, 2016, the State shall provide Bridge Funding for at least an additional 300 individuals in the Target Population.

DBHDD complied with this requirement in a timely manner and exceeded the numerical obligation.

33. By June 30, 2017, the State shall provide Bridge Funding for at least an additional 300 individuals in the Target Population.

DBHDD appears to be on course to meet or exceed this requirement by the end of the Fiscal Year. All individuals with a GHV received Bridge funding.

34. By June 30, 2016, the State shall provide GHVP vouchers for an additional 358 individuals in the Target Population.

DBHDD complied with this requirement in a timely manner and exceeded the numerical obligation.

35. By June 30, 2017, the State shall provide GHVP vouchers for at least an additional 275 individuals in the Target Population.

DBHDD appears to be on course to meet or exceed this requirement by the end of the Fiscal Year. It is anticipated that there will be 2,850 individuals with a GHV and a signed lease by June 30, 2017.

36. Supported Housing is assistance, including psychosocial supports, provided to persons with SPMI to assist them in attaining and maintaining safe and affordable housing and support their integration into the community. Supported Housing includes integrated permanent housing with tenancy rights, linked with flexible community-based services that are available to consumers when they need them, but are not mandated as a condition of tenancy. Supported Housing is available to anyone in the Target Population, even if he or she is not receiving services through DBHDD.

DBHDD has consistently complied with this definition of Supported Housing. However, at this time, it is not evident that Supported Housing is available to anyone in the Target Population, even if he/she is not receiving services through DBHDD. Additionally, the Independent Reviewer and her consultant have recommended that DBHDD not include housing capacity in the Residential Rehabilitation Program because it is not confirmed that this housing fully complies with the above definition.

37. Supported Housing includes scattered-site housing as well as apartments clustered in a single building. Under this Extension Agreement, the State shall continue to provide at least 50% of Supported Housing units in scattered-site housing, which requires that no more than 20% of units in one building, or

no more than two units in one building (whichever is greater), may be used to provide Supported Housing.

Based on the observation of apartment locations throughout the Regions as well as the review of data maintained by DBHDD, the State continues to be in compliance with this Provision's requirements.

38. Under this Extension Agreement, by June 30, 2018, the State will have capacity to provide Supported Housing to any of the individuals in the Target Population who have an assessed need for such support.

Based on all information available to the Independent Reviewer and her consultants, without substantial change to DBHDD's current approach, it is difficult to see how the Agreement's requirements for access to Supported Housing for all members of the Target Population can be met in the time remaining for implementation of the Agreement.

39. Between the Effective Date of this Extension Agreement and June 30, 2018, the State shall continue to build capacity to provide Supported Housing by implementing a Memorandum of Agreement between DBHDD and the Georgia Department of Community Affairs, which includes the following components:

DBHDD has a signed Memorandum of Agreement with the DCA.

39.a. A unified referral strategy (including education and outreach to providers, stakeholders, and individuals in the Target Population) regarding housing options at the point of referral;

This requirement will be reviewed for the next Report to the Court.

39.b. A statewide determination of need for Supported Housing, including developing a tool to assess need, forming an advisory committee to oversee the needs assessment, developing a curriculum to train assessors, training and certifying assessors, and analyzing and reporting statewide data;

This requirement will be reviewed for the next Report to the Court. The statewide data continue to require analysis.

39.c. Maximization of the Georgia Housing Voucher Program;

The resources of the Georgia Housing Voucher Program have been used effectively throughout the course of this Agreement; their utilization will continue to be evaluated in light of the Memorandum of Agreement.

39.d. Housing choice voucher tenant selection preferences (granted by the U.S. Department of Housing and Urban Development);

This preference remains in effect until the end of the Settlement Agreement.

39.e. Effective utilization of available housing resources (such as Section 811 and public housing authorities); and

DCA and DBHDD have been slow to utilize the new 811 resources; these resources have the potential to add approximately 190 new units that can be accessed by the Target Population. The difficulty may be as much a problem with the program's design and policies rather than a utilization problem of the two Departments. This issue will be explored further.

39.f. Coordination of available state resources and state agencies.

The two Departments established a liaison position in order to strengthen inter-agency coordination. Staff has been hired and has begun to implement her responsibilities. There is substantial evidence of a solid working relationship between DBHDD and DCA.

40. The State shall implement procedures that enable individuals with SPMI in the Target Population to be referred to Supported Housing if the need is identified at the time of discharge from a State Hospital, jail, prison, emergency room, or homeless shelter.

As referenced earlier in this Report, the procedures that are currently in place are not as effective as needed in order to ensure compliance with this Provision. These procedures continue to be under extensive review.

The attached reports by Martha B. Knisley and Beth Gouse provide further discussion and analysis of DBHDD's efforts to date.

In addition, their reports offer the following recommendations for consideration:

- In order to ensure access to Supported Housing by individuals exiting jails and prisons, communication with jails and prisons should be further explored. Regional Housing staff could accomplish this by adopting a more formalized process for communication and referral.
- In order for State Hospital discharge planning to be successful, it must be shared by all team members and community providers and be a primary focus upon admission. Referral to community services should be initiated as soon as practicable after admission to permit these community-based staff to come to the Hospital prior to an individual's discharge.

- DBHDD should expand the use of peer transition specialists in unit-based programming and in community transition activities. Many individuals are reluctant to accept community resources and may be more receptive to consideration of these resources if informed by peers.
- DBHDD should evaluate the efficacy of its transition planning processes, performed by both inpatient staff as well as community providers.

In summary, it is evident that DBHDD continues to make progress in meeting the Settlement Agreement's requirements for Supported Housing. The Georgia Housing Voucher Program and the collaboration with DCA continue to be strong components of its efforts.

However, a number of important unanswered questions remain.

In order to achieve compliance with the terms of the Agreement, DBHDD will need to improve its needs assessment and referral process. It will need to expand capacity. Referrals from jails, prisons, State Hospitals, including those with forensic units, Crisis Stabilization Units, residential programs and emergency rooms remain low or non-existent from some sources. Information about who could be referred from those sites, if the process were more robust, is still unknown. This paucity of referrals appears to be partially related to the needs assessment process but is also likely attributable to the referral process itself.

There are well-defined actions that can be implemented by DBHDD to address these concerns. It is now important to act with a degree of urgency so that progress can be visible in the remaining months of the Agreement.

CONCLUDING COMMENTS AND RECOMMENDATIONS

The time envisioned for the completion of the State's obligations under the Settlement Agreement and its Extension is approximately 15 months away.

Although progress is clearly evident in the State's implementation of the Settlement Agreement and its Extension, critical gaps remain to be addressed; the time remaining to do so is limited.

Based on the information gathered for the completion of this Report, it is strongly recommended that the State concentrate additional efforts and resources to accomplish the following:

- 1) Develop and implement a plan to place all persons with DD into community settings from Gracewood and any other institutional setting; the current pace of placement will not enable such placement within the timeframe envisioned in the Extension.
- 2) In collaboration with the Department of Justice and the Independent Reviewer, with input from the Amici, revise the process for the High Risk Surveillance List so that its oversight is more clearly focused on individuals with an escalated need for clinical oversight due to their health or behavioral needs for support. For example, there should be separate lists for individuals with health-related risks and those with behavioral challenges. The clinical skills required for staff who must support these two categories of individuals are different; they require distinct interventions. All individuals with DD in a specific residential setting should be reviewed to determine whether or not they should be included on the High Risk List, not just those who have transitioned from a State Hospital under the terms of the Agreement. The failure to include everyone in a specific residential setting undermines the continuity and consistency of staff interventions and remedial strategies. The State should also ensure that people are not removed from the High Risk List prematurely. In all of this, the State needs to ensure the effectiveness of its High Risk Surveillance List program with evidence that poor outcomes have decreased over time and have been minimized.
- 3) Ensure the effectiveness of the State's Intensive Support Coordination system with evidence that poor outcomes have decreased over time and have been minimized as a result of Intensive Support Coordination involvement. Strengthen the role of the Support Coordinator in the monitoring of the actions initiated under the High Risk Surveillance List. The Support Coordinator is the linchpin for the implementation of the Individual Support Plan. Therefore, the Support Coordinator should be a central figure in the planning and monitoring of any individual determined to be of High Risk. At this time, reportedly, the Support Coordinator may receive information about

an individual on the High Risk Surveillance List but is not directly involved in planning and reviewing the interventions.

- 4) Ensure the effectiveness of the State's Integrated Clinical Support System with evidence that poor outcomes have decreased over time and have been minimized as a result of Integrated Clinical Support System involvement. The method for tracking the requests for clinical interventions by the Integrated Clinical Support Teams should be examined and strengthened as necessary. The site visits conducted for this Report confirmed delays in the receipt of such important clinical assessments as speech/language; physical therapy; occupational therapy and psychology. Timeframes should be established for the completion of all requested assessments and clinical interventions. There should be stronger oversight of implementation.
- 5) Ensure that people with DD are participating in day activities in the most integrated community setting that supports each person's growth and development; day activities include employment in the community whenever appropriate. The Transition Fidelity Committee should require more detail about the day program settings and supports planned for individuals with DD leaving the State Hospitals. Observation of certain settings used for those individuals who transitioned in Fiscal Year 2016 found the absence of relevant programming, crowded spaces and a lack of integrated community activities. These conditions mitigate against the implementation of the Individual Support Plans.
- 6) Ensure that there is informed consent for the administration of psychotropic medications. There were repeated findings in the review of individuals with DD that informed consent is not present. This violation of acceptable practice has been cited every year that the Settlement Agreement has been in effect. It needs to be resolved.
- 7) If the Provisions regarding Housing with Supports for individuals with SPMI are to reach compliance, there must be a detailed examination of the lack of timely referrals from State Hospitals, jails and prisons. Without prompt and additional remedial actions, it is not clear that the State can comply with the requirements of Provisions 36, 38 and 40 requiring access to Housing with Supports for all members of the Target Population.
- 8) Ensure that each ACT team is providing effective ACT services at or near each team's capacity whenever needed in that Region. The State should assess and outline a plan to address the need for additional ACT teams in Regions where ACT utilization is at or near ACT capacity and there are high readmission rates to State Hospitals in that Region. The State should ensure the effectiveness of its ACT program with evidence that poor outcomes have decreased over time and have been minimized. As part of its review of fidelity to the Dartmouth Assertive Community Treatment (DACT) model, the

Department should examine the turnover in the caseloads of the ACT teams to determine whether there are resource constraints that are causing the high turnover rates and whether individuals terminated from ACT continue to receive the supports essential for their stabilization and well-being.

9) DBHDD should review and revise the protocols and practices related to discharge planning so that individuals leaving the State Hospital have sufficient time and opportunity to be linked to Supported Housing and any other necessary community-based resources. This is especially important in the greater Atlanta metropolitan area with its high level of demand for mental health services.

10) DBHDD should ensure and document the effectiveness of its mortality review program with evidence that preventable deaths have decreased over time and have been minimized as a result of the implementation of measures to address individual or systemic recommendations from the Mortality Review Committee.

These recommendations are designed to help address currently identified issues and constraints that may be impeding progress towards substantial compliance with key Provisions of the Settlement Agreement and its Extension.

Discussion about these recommendations would be welcomed prior to the completion of the next Report to the Court.

Submitted By:

_____/s/_____

Elizabeth Jones, Independent Reviewer

ATTACHMENT ONE: CONSULTANT REPORTS

Report on Discharges to Shelters

Beth Gouse, Ph.D., Consultant

February 28, 2017

Overview

This progress report summarizes the independent review of discharges to shelters from Georgia Regional Hospital-Atlanta (GRHA) between July 1 and December 31, 2016 (19 shelter discharges) and from Georgia Regional Hospital-Savannah (GRHS) between July 1 and September 2016 (5 shelter discharges). (There were two additional discharges to shelters from GRHS between October and December 2016 that this writer was not able to review.) There were no shelter discharges from either East Central Regional Hospital (ECRH) or West Central Regional Hospital (WCRH) between July 1 and December 31, 2016. In addition, discharges from GRHA hotels/motels between July 1 and December 31, 2016 were briefly reviewed to check readmission rates. Data were reviewed and compared with data from shelter discharges between January 1 and June 30, 2016. Finally, implementation of recommendations from a prior report was reviewed; additional recommendations are offered below.

Methodology

This review included interviews with individuals in care, clinicians at GRHA and GRHS, extensive record review (records of all individuals discharged from GRHA to shelters between July 1 and December 31, 2016 and all individuals discharged to shelters from GRHS between July 1, 2016 and September 30, 2016), policy review, tours of GRHA and GRHS, and the DBHDD shelter discharge reports for Quarters 1 and 2 for Fiscal Year (FY) 2017. In addition, this writer met with advocates and had discussions with central office staff from the Department of Behavioral Health and Developmental Disabilities (DBHDD).

Findings

1. Compared to FY 2016, discharges to shelters in the first two Quarters of FY 2017 remain significantly lower than in FY 2016. Furthermore, the numbers of discharges in the 2nd Quarter of FY 2017 are significantly lower than in the 1st Quarter of FY 2017 (9 compared to 17). This likely reflects the continued adherence to the DBHDD change in policy that occurred in February 2016. This policy change requires a review of all shelter discharges by the Chief Medical Officer of DBHDD. There are increased efforts by staff to find alternative placements and to engage the individual in discharge planning. For example, at GRHS, the clinical leadership team collectively meets with each individual requesting shelter placement and, at times, is successful in

convincing an individual to remain a little longer in order to take advantage of more permanent housing options.

Of note, however, is that the number of placements to hotels/motels and transitional residential housing (non-state) increased from the 1st Quarter to 2nd Quarter of FY 2017. For example, at GRHA, those discharged to transitional residential housing (extended stay hotel/motel) increased from 17 in the 1st Quarter to 42 in the 2nd Quarter. At GRHS, the number went from 1 in the 1st Quarter to 19 in the 2nd Quarter. In reviewing all available DBHDD shelter discharge reports, the number discharged to transitional residential housing (extended stay hotels) quadrupled in the most recent Quarter compared with the prior three Quarters. This bears watching, given the readmission rates for those discharged to hotels.

Despite increased efforts to locate alternative housing options and refer to PATH, discharge planning for some individuals begins in earnest only several days prior to discharge. Record review indicates that there are more discussions about discharge in the weeks leading up to discharge yet effecting a plan sometimes does not begin until the individual signs the Request for Shelter Placement form. With some exceptions, the most common scenario at GRHA continues to be that an individual requests discharge, the Request for Shelter Placement form is completed, and the individual is discharged within a day or two of the request. For the majority of individuals, the records clearly reflect efforts by social workers to offer a variety of other resources (e.g., PATH, placement in a Personal Care Home, transitional housing, residential substance abuse treatment, BOSU assistance, ACT, ICM, housing voucher). However, in most instances, individuals refused all offers of assistance. Though there has been progress with respect to increased referrals to PATH, making this connection between the individual and PATH staff continues to be a challenge prior to discharge, especially at GRHA.

The average length of stay (LOS) for individuals discharged from GRHA between July 1, 2016 and September 30, 2016 was 34 days. One individual was excluded from this calculation as his LOS was over two years and would have skewed the mean. The average LOS for individuals discharged between October 1, 2016 and December 31, 2016 was 16 days. For comparison purposes, the average LOS for individuals discharged between January 1, 2016 and March 31, 2016 was 14 days and the average LOS for individuals discharged between April 1, 2016 and June 30, 2016 was 18 days. The average LOS for individuals discharged from GRHS between July 1, 2016 and September 30, 2016 was 18 days.

2. Assertive Community Treatment (ACT) and Intensive Case Management (ICM) continue to be underutilized resources. Over half of the individuals met criteria for ACT and/or ICM and while the number referred for either

ACT or ICM increased since the last review, the linkage with community providers did not routinely occur prior to discharge, particularly at GRHA. At GRHS, this linkage generally occurred prior to discharge. While significantly more individuals were offered these services than in the 3rd and 4th Quarters of FY 2016, the most common scenario is that the individual refuses to accept the referral. In addition, discussion about referral for such services continues to occur close to discharge as opposed to earlier in admission. As a result, time for actively engaging the individual in discharge planning is limited. On a more positive note, significantly more individuals have been referred to PATH in the 1st and 2nd Quarters of FY 2017. However, in only a small number of instances, the PATH staff met with the individual prior to discharge. Without making this connection prior to discharge, it is unlikely this service will be provided after discharge. Again, this linkage occurs with more regularity at GRHS than at GRHA. Given that individuals residing in shelters are typically not permitted to remain in the shelter during the day, coupled with the limited attendance at outpatient appointments, PATH services are quite likely underutilized as well.

3. Readmission following shelter placement continues to occur with some regularity. For example, out of the 19 shelter discharges from GRHA reviewed since July 1, 2016, 6 individuals (32%) were readmitted to GRHA following discharge as of February 9, 2017. In addition, of the 12 discharged from GRHA to hotels/motels since July 1, 2016, 4 individuals (25%) have been readmitted as of February 9, 2017. This writer does not have readmission data from GRHS.
4. Metro Task Force for the Homeless shelter at Peachtree and Pine continues to be the shelter most frequently used for referrals, primarily because identification is not required for admission. 50% of those discharged to shelters from GRHA went to Peachtree and Pine and 21% went to Atlanta Union Mission. By comparison, in the 3rd and 4th Quarters of FY 2016, 63% went to Peachtree and Pine and 27% went to Atlanta Union Mission. Additionally, the most frequently referred outpatient provider by far is Grady Momentum Clinic. Of note is that this writer reviewed an aftercare report completed by the hospital social worker 72 hours after discharge that checks whether the individual showed up for his/her scheduled outpatient appointment. In the majority of cases, when the report was completed, the individual did not show up for this scheduled appointment.
5. There continues to be limited consideration of civil commitment and guardianship as temporary tools to assist individuals with recovery and treatment compliance. Similarly, utilizing newer antipsychotic medications (e.g., Clozaril) for individuals with particularly refractory symptoms could be considered as well. For example, for one individual whose psychotic symptoms interfere with discharge planning and for whom her current

medication regime does not appear to be effectively treating these symptoms, it may be worthwhile considering alternative treatment.

6. The Recovery Plan form continues to be unwieldy, repetitive, and not conducive to the development of interventions that are individualized, targeted towards transition, and skills-based. The revised form that was piloted at GRHS has not been rolled out statewide yet. It is expected that this template will assist with developing more focused, individualized objectives and interventions geared towards transition and successful community placement.
7. Engaging individuals in discharge planning early in admission is critical. There are limited unit-based treatment interventions focused on discharge planning and building knowledge of community resources. There is also inconsistent participation by community providers in recovery planning. At GRHS, staff consistently report greater participation by community providers in recovery planning and strong collaborative relationships with community providers. GRHS staff also host regular partnership meetings with community providers. If not able to be present at team meetings, staff utilize teleconference capability. In addition, staff also consistently reported the positive impact that peer specialists and peer mentors have on engaging individuals in discharge planning.
8. While there are considerable housing resources for individuals, there continue to be challenges with accessing residential substance use treatment for dually-diagnosed individuals, especially for those transitioning from GRHS and who have limited or no funds. Furthermore, admission criteria have changed for at least one residential program (Social detox), such that if an individual has already detoxed in the hospital, that makes them ineligible for admission. In addition, there are long waits for crisis stabilization and crisis respite apartments.

Recommendations

In order to increase the likelihood of successful placement in permanent housing as well as to reduce the readmission rate for individuals discharged to shelters and hotels/motels, the following recommendations are offered for consideration by DBHDD:

1. In order for discharge (or transition) planning to be successful, it must be jointly shared by all team members and community providers and be a primary focus upon admission. In addition, there should be greater focus on the development of unit-based programming centered on improving awareness of community resources, as the majority of individuals do not attend the TLC due to the relatively brief lengths of stay.

2. With the pending roll out of the revised treatment plan form, this is an ideal opportunity to provide training to all RPT staff and encourage ownership of discharge planning by all team members and community providers. Conducting such training jointly with inpatient staff and community providers will promote shared ownership of successful outplacement planning. DBHDD should consider adopting at GRHA the effective approach used at GRHS in which community providers and clinical leadership meet regularly to build collaborative relationships and improve communication. That said, there are certainly challenges in Atlanta related to volume and capacity of providers that are somewhat unique relative to other parts of Georgia. It follows that employing strategies that have been effective elsewhere will require adaptation and creativity, especially in light of resources.
3. In order to increase the likelihood of successful outplacement following discharge, a) referral to ACT, ICM, and PATH should be initiated as soon as practicable after admission to allow for these community-based staff to come to the hospital prior to an individual's discharge; b) referral to Benefits Outreach Services Unit (BOSU) should be made a standard practice early in the admission since assisting with the application for benefits will enable individual to access more resources once in the community; c) individuals should be helped to obtain an ID earlier in admission; this should be a standard practice.
4. DBHDD should expand use of peer transition specialists in unit-based programming and/or in community transition activities (e.g., visits to Personal Care Homes or transitional housing, etc.). Many individuals are reluctant to accept community resources and may be more receptive to consideration of these resources if informed by peers.
5. DBHDD should evaluate appropriate use of civil commitment, especially for individuals with multiple readmissions for whom more intensive outpatient treatment has not been successful. DBHDD should consider instituting routine supervisory review of how decisions are made regarding civil commitment.
6. DBHDD should evaluate the efficacy of its transition planning processes, performed by both inpatient staff as well as community providers. For example, there has been a 15% increase in the Transition Action Plans (TAP) completed between July 1, 2016 and December 31, 2016 compared with the prior review period (77% compared to 62%). It was also reported that of the TAP reviews submitted, no specialty providers had an individual discharged to a shelter. Since there have been individuals discharged to shelters with a specialty provider, further in-depth analysis of TAPs by provider (specific ACT team, ICM, etc.) for individuals

discharged to shelters, hotels/motels, and transitional housing (extended stay hotel/motel) is necessary to determine how the specialty providers not completing TAPs differ in their treatment approach and how to improve their performance.

7. DBHDD should consider strategies for increasing residential substance use treatment capacity and ensuring that admission criteria match the needs of those transitioning out of hospitals. DBHDD should also consider increasing its capacity of crisis respite apartments, especially in the greater Savannah area.

Supported Housing: Report to the Independent Reviewer
U.S. v. Georgia
February 23, 2017

Submitted By: Martha B. Knisley, Consultant

This report summarizes findings of progress made and outstanding issues identified regarding Supported Housing provisions of the Settlement Agreement during the first seven months of FY 2017. This report focuses on three primary issues:

(1) The State's progress in meeting Settlement Agreement requirements to determine need and provide access to housing with supports to members of the Target Population with SPMI, including the implementation of procedures that enable individuals with SPMI to be referred to Supported Housing if the need is identified at the time of discharge from a State Hospital, jail, prison, emergency room or homeless shelter;³

(2) The State's 2017 Supported Housing capacity estimate; status of the implementation of the Memorandum of Agreement between Georgia's Department of Behavioral Health and Developmental Disabilities (DBHDD) and the Department of Community Affairs (DCA); and

(3) The State's progress in meeting Bridge Funding and Georgia Housing Voucher Program requirements.

Information analyzed for this report was obtained from written documents provided by the Department of Behavioral Health and Developmental Disabilities; key informant interviews with Carmen Chubb, Deputy Commissioner for Housing at the Department of Community Affairs (DCA); DBHDD staff including Judy Fitzgerald, Commissioner; Pamela Schuble, the former Settlement Agreement Coordinator; Amy Howell, Assistant Commissioner and General Counsel; Monica Thompson, Director of the DBHDD Division of Community Mental Health; Terri Timberlake,

³The Target Population is referenced as including "the approximately 9,000 individuals with SPMI who are currently being served in State Hospitals, who are frequently readmitted to the State Hospitals, who are frequently seen in emergency rooms, who are chronically homeless, and/or who are being released from jails or prisons. The Target Population also includes individuals with SPMI and forensic status in the care of DBHDD in the State Hospitals, if the relevant court finds that community services are appropriate, and individuals with SPMI and a co-occurring condition, such as substance abuse disorders or traumatic brain injuries." Furthermore, "the State shall implement procedures that enable individuals with SPMI in the Target Population to be referred to Supported Housing if the need is identified at the time of discharge from a State hospital, jail, prison, emergency room, or homeless shelter." (See Extension of Settlement Agreement, paragraphs 30 and 40.)

Director, Office of Adult Mental Health; Doug Scott, Office of Mental Health Director of Housing; Letitia Robinson, recently hired as the DCA-DBHDD Liaison and Dawn Peel, the Region 2 Administrator. Interviews were also conducted with Volunteers of America staff in Reidsville, Georgia and with members of the Amici. There was observation of housing properties in DBHDD Regions 2,3 and 5.

Observations and Findings:

1.) Establishing Need and Referral to Supported Housing

An outstanding issue for the State to address during this Extension Agreement period is to ensure individuals who have a need for Supported Housing are assessed and provided such support (up to 9,000 individuals). In past reports, questions regarding the sufficiency of the needs assessment process have been raised, including the extent to which the process identifies individuals in all the groups in the Target Population and the timeframe and process for providers to complete an additional risk assessment and individualized recovery plan before an individual can access housing.

Information provided by DBHDD to date identified the results of the Housing Need and Choice Surveys in Phase I and Phase II of the Survey process. Phase I was the "baseline" survey process that began in June 2015. During Phase I, DBHDD addressed logistics and validity issues associated with creating a new survey of this magnitude and complexity.

DBHDD reported 2,706 individuals were reviewed during Phase I. Of those reviewed, twenty-four percent (24%) of the individuals were in need of and chose Supported Housing.

Phase II began in the 4th Quarter of FY 2016. In a January 12, 2017 report, DBHDD reported that Phase II surveys were completed for 713 individuals. Of those reviewed, 37% of the individuals were in need of and chose Supported Housing.

The information provided regarding these surveys is helpful in reviewing DBHDD's process for assessing the need of individuals who are receiving services.

Further information and verification is needed to determine the sufficiency of this process. The data received to date do not fully reveal the extent to which the needs of individuals in the Target Population who are being released from jails and prisons, being discharged from hospitals, frequently seen or discharged from emergency rooms and those who are chronically homeless or being discharged from shelters are being assessed. Second, it is not yet clear if individuals being assessed as being in need of Supported Housing are able to access Supported Housing in a timely fashion. These questions are related to both the efficacy of the assessments and the availability of needed services and housing capacity.

Over the past six years, the numbers of individuals accessing housing from psychiatric hospitals, emergency rooms and jails and prisons has been very low. The policy for deciding who is assessed is weighted toward individuals already known to providers. A review of data regarding Phase II assessments points to this issue. In the next Quarter, this issue will be assessed further and reported on in the Independent Reviewer's September Report. The DBHDD state hospital policy for assessments requires that a housing needs survey be completed following admission. The implementation and impact of that policy will be part of this evaluation.

For illustration, the number of individuals discharged from DBHDD Hospitals to a Housing Program in the 2nd Quarter of FY 2017 was 2.7% of all hospital discharges or sixteen (16) individuals. Likewise, hospital discharges only represented 8% of all individuals getting into Supported Housing in the first six months of FY 2017.

In New Jersey, also a state with a Settlement Agreement, the percentage discharged directly from state psychiatric hospitals into "permanent" Supported Housing was 25% or forty-five (45) individuals for the same time period. Of individuals discharged from New Jersey state psychiatric hospitals on a discharge pending placement status, the percentage was even higher, 33%. Individuals accessing Supported Housing discharged from state psychiatric hospitals were 44% of the total number of individuals accessing Supported Housing (state funded). Reviews in other states have revealed that a high percentage of individuals living in residential facilities could move, if the opportunity for Supported Housing was available.

Other issues to be assessed further are the arrangements for providers making referrals and the impact of the definitions used by DBHDD for those who are "frequently seen," "frequently admitted" or chronically homeless.

The issue of assessing the needs of individuals exiting jails and prisons has been raised numerous times. There are few referrals of individuals in this category and typically these referrals are from the Atlanta Legal Aid's Nick Project or through one of the six Regional Housing Coordinators who have relationships with prison or jail staff, but in a limited number of facilities. Expanding and improving communication with jails and prisons should be further explored. This could be done with Regional staff adopting a more formalized process for communication and referral. (There may be a need for additional resources/support if surveys and assessments are to be conducted in jails and prisons.) It is clear that a number of providers and Regional staff have relationships with jails that could prove beneficial to adopting a more formal process.

DBHDD has also not yet reported on outcomes of those who have been assessed. Two questions will be asked during fieldwork in the next Quarter: (1) of those with assessed need, how many accessed Supported Housing? and (2) of those who did not access Supported Housing, what were the reasons this did not happen?

The number of Georgia Regional Hospital Atlanta referrals to shelters in Atlanta has been reduced over the past year. Data from the 2nd Quarter of FY 2017 show a decline of over 80% in discharges to a shelter (50 to 9) over the same period from the year before. A number of individuals were referred to PATH teams who, in turn, made temporary housing arrangements through a new agreement between the agencies (PATH Teams and DBHDD) beginning in FY 2016. As part of the analysis of assessing housing need, it will be important to determine the number of individuals referred to these temporary housing arrangements by PATH programs who were then offered a Georgia Housing Voucher, Shelter Plus Care or other permanent housing with supports since the inception of the program and whether or not they have remained stably housed. This review should also include a review of the housing disposition, if there was not Supported Housing for these individuals.

Information from the DBHDD Hospitals' 2nd Quarter Discharge to Shelters report reveals that nineteen (19) individuals statewide were discharged to shelters and motels/hotels. This number has remained essentially the same over the last four Quarters.

2.) Building Capacity

On the broad question of whether the State is building capacity sufficient to meet the assessed need for Supported Housing of the target population, the State is making slow but steady progress. The State primarily relies on the state-funded Georgia Housing Voucher Program (GHVP) to subsidize affordable housing for the Target Population and has expanded the program through other resources (VASH, Shelter Plus Care, the DCA preference for Housing Choice Vouchers, local PHA preferences, etc.).

The Extension Agreement requires the State to continue to build capacity by implementing a partnership Memorandum of Agreement (MOA) between DBHDD and the DCA. This MOA and partnership appears to be working effectively on items outlined in **Supported Housing paragraph 39. (c-f).** The two agencies gave attention to these items before this requirement was added. The agencies recently collaborated on developing a job description and then hiring a single individual as the Liaison between the two agencies. Letitia Robinson, previously working on the DBHDD needs assessment, was recently hired in this liaison position. The two agencies along with the Atlanta Continuum of Care (CoC) are collaborating on a joint referral strategy.

In the 4th Quarter of this year, attention will be given to the Extension Agreement requirements not reviewed previously:

(a.) Whether the two agencies have “a unified referral strategy, including education, outreach to providers, and individuals in the Target Population regarding housing options at the point of referral”; and

(b.) Whether the statewide determination of need provision that includes developing the tool to assess need, forming an advisory committee to oversee the needs assessment, developing a curriculum to train assessors, training and certifying assessors, and analyzing and reporting statewide data has been implemented fully.

The review will be focused on the sustainability of this agreement given that it is key to the State meeting its capacity requirement. The review will include measuring the effectiveness of identifying need that results in successful referrals. The review will extend to an analysis of the production and use performance and outcome data based on key indicators for meeting the Extension Agreement requirements and successful housing outcomes for the Target Population.

The State has the potential to add capacity for 1,566⁴ individuals in FY 2017. A significant portion of this new capacity is actually turnover capacity. Of the potentially available 1,566 subsidies that could be used in FY 2017, 481 would be available because of turnover in Shelter Plus Care and the GHVP. (Turnover capacity only means more individuals can be served as individuals leave the program, it does not represent new units or vouchers.) DBHDD has done a good job of re-cycling vouchers quickly, thus maximizing their capacity. DBHDD has also added new vouchers through state allocations, DCA Housing Choice Vouchers (preference vouchers), 811 and public housing partnerships. Since 2014, 354 individuals have shifted from a GHV to a DCA Housing Choice Voucher, enabling the State to maximize its resources.

DCA and DBHDD have been slow to utilize the new 811 resources. Adding these resources has the potential to add approximately 190 new units that can be accessed by the Target Population. This difficulty may be as much a problem with the program's design and policies rather than a DCA and DBHDD utilization problem. This issue will be explored further and reported on in the months ahead. Regardless of this progress, the State's total capacity will likely be between 4,900-5,100 units/vouchers available at the end of FY 2017.

DBHDD staff continue to report that capacity generally meets the expressed need, although staff acknowledge this depends in part on the capacity in any particular community at any point in time as well as an individual's circumstances. Dawn Peel, the Region 2 Administrator, expressed that in three metro areas in her Region, Augusta, Macon and Athens, housing was more readily available and that, in particular, the Augusta and Macon Housing Authorities had been helpful. On the other hand, getting housing in Milledgeville is more challenging because there are Section 8 rental subsidy limits. As in past discussions with Regional staff, her knowledge of what works to help individuals gain access to housing was encouraging. It demonstrates that the State will more likely increase capacity. The

⁴ This does not include any units projected to turn over in the DBHDD Residential Rehabilitation Program pending further review.

interest, knowledge and skill of staff in the Regional offices and provider community is a tangible yet not always visible asset.

Beginning in FY 2015, DBHDD began reporting capacity in the Residential Rehabilitation Program (RRP) indicating that some programs with both congregate and scattered sites have units with tenancy rights that meet the Settlement Agreement's Supported Housing definition. DBHDD did not report this program's numbers prior to FY 2015. In FY 2015, DBHDD reported the number of units in RPP that qualified as 1,200. This number was increased to 1,322 units in FY 2016. After repeated inquiry regarding the validity of that number, DBHDD reduced the number to 617 units on November 14, 2016 and 305 units on November 22, 2016.

A visual random review of Region II, III and V properties was made during the 2nd and 3rd Quarters of FY 2017. Based on further discussion with DBHDD and clarification on a property that was vacant and another with a wrong address, it is recommended that DBHDD not include these properties in the Supported Housing capacity numbers. A number of the properties are poorly maintained, one was reported to have rules with contingencies and there appears to be an overall lack of institutional controls on the program sufficient to determine they meet the Supported Housing definition in the Settlement Agreement.

3.) Bridge Funding and the Georgia Housing Voucher Program and MOU Requirements

The State is required to provide Bridge Funding for at least an additional 300 individuals in the Target Population in FY 2017 and GHVP vouchers for an additional 358 individuals in the Target Population. The State is on track to meet those requirements. On February 15, 2017, the State reported there were 2,251 individuals with signed leases living in a rental unit with a GHV. On January 18, 2017, the DBHDD reported 485 individuals had already accessed housing in FY 2017 and 115 individuals had a notice to proceed to find a unit. Since individuals are continuously vacating housing and looking for housing, compliance is measured by those who are in housing and those who are approved for housing with a "notice to proceed."

As of the January date, 97% of those individuals housed in FY 2017 were still housed and, based on previous years, this will drop to approximately 90% at the end of a year. Every individual getting a GHV had access to Bridge Funding and eighteen individuals who got 811, VASH or other housing got Bridge Funding. Overall housing stability remains consistent with 18% of "negative leavers" being rehoused. It is anticipated the total number of individuals with a GHV and signed lease will be approximately 2,850 at the end of FY 2017.

The prior residential location for individuals housed remains essentially the same as in prior reporting periods. Fifty-five percent (55%) of the total placed were homeless at the time they were housed, the same as the previous year and up

slightly over the entire Settlement Agreement reporting period. Region 3's percentage is 74%, down 1% from the prior reporting period. The percentage of referrals from jails and prisons remained the same, only 218 over a six-year period, while individuals who were homeless was 2,396 over the same period. Likewise, the total for hospital discharge referrals was 462, or only 11% of all referrals over time. As referenced in the first section of this report, these disparities may reflect that individual need is not being consistently assessed across the Target Population categories or there may be a more general pattern of individuals across all the categories not being assessed and referred.

Summary

The State continues to make progress in meeting the Settlement Agreement's Supported Housing requirements. However, a number of important unanswered questions remain.

In order to achieve compliance with the terms of the Agreement, the State will need to improve its needs assessment and referral process and expand capacity. Referrals from jails and prisons, hospitals, including those on forensic status, Crisis Stabilization Units, residential programs and individuals who are exiting emergency rooms, remain low or non-existent from some sources and information about who could be referred from those sources, if the process was more robust, is still unknown. This paucity of referrals appears to be partially related to the needs assessment process but also likely attributable to the referral process itself.

The State's commitment to building capacity remains strong, especially through the DCA-DBHDD partnership. Hopefully, this partnership is being built to be sustainable which will also be a focus of the Supported Housing review in the forthcoming months.