

**UNITED STATES DISTRICT COURT DISTRICT OF RHODE ISLAND**

**UNITED STATES OF AMERICA**

Plaintiff

v.

C.A. No. 13-442L

**STATE OF RHODE ISLAND and**

**CITY OF PROVIDENCE**

Defendants

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**COURT MONITOR'S REVIEW OF STATE ACTIVITIES IN RESPONSE TO THE  
ORDER OF COMPLIANCE WITH OUTSTANDING INTERIM SETTLEMENT  
AGREEMENT REQUIREMENTS FILED JUNE 23, 2017**

This report reviews the State of Rhode Island's progress on meeting the performance requirements specified in the Court Order issued on June 23, 2017. The assessment focuses on the State's activities relative to each of the nine provisions of the Order identified in Section I, Action Dates. The assessment is based on documentation provided by the State on July 12, 2017 and on August 3, 2017 addressing activities that took place during the months of June and July 2017. Additional information was gathered during site visits held on July 10th and July 27th, 2017, conference calls involving the Parties, direct conversations with key staff and email correspondence with State officials regarding progress on meeting each of the provisions of this Order. Further assessment of the State's progress on meeting the terms of this Order will take place in accordance with the provisions, requirements and time frames detailed in Section III, Job Placements and in Section IV, Compliance Dates.

- 1. DDD will implement the variance and retirement policy by June 30, 2017 to specifically discern those who do not identify with either current or long-term employment goals. ORS will assist DDD with ORS-related service implementation.**

**Status:** DDD developed Variance policies and application procedures with considerable input from self-advocates, providers, families and the Employment First Task Force, as well as from the Monitor and the U.S. Department of Justice. The Variance policy and application

forms were approved by the Monitor and posted, along with a listing of Frequently Asked Questions and a description of applications procedures, in the “Employment First” section of the DDD webpage (see <http://www.bhddh.ri.gov/developmentaldisabilities/variance.php>) . A Retirement Policy was developed by DDD and is consistent with the requirements of the Interim Settlement Agreement and the Consent Decree. The Retirement Policy is posted in the Forms section of the DDD website, [http://www.bhddh.ri.gov/developmentaldisabilities/forms\\_provider.php](http://www.bhddh.ri.gov/developmentaldisabilities/forms_provider.php)) and at the bottom of the Variance Policy webpage. The Variance Policy and the Retirement Policy were completed by June 30, 2017 as required and are in the early stages of implementation. No applications for a Variance have been submitted to the Monitor for approval.

**Assessment: Requirements Met.**

2. **DDD will ensure quality Career Development Plans (CDP) / Person-centered Planning (PCP) for all active members through a comprehensive review of each plan no later than July 30, 2017. This review will include confirmation that goals and services align with current employment interest. ORS will assist DDD with any ORS-related service implementation for CDPs/PCPs.**

**Status:** DDD completed its review of all 64 active TTP Target Population members served by CWS by July 30, 2017 (Table 1). Of the 63 individuals with completed CDPs (One person had recently

<b>Table 1 Status of TTP Target Population Members' Career Development Plans by Provider Agency</b>				
<b>Agency</b>	<b>Total CDPs</b>	<b>Acceptable</b>	<b>Not Acceptable</b>	<b>% Acceptable</b>
CWS	63	19	44	30%
PERSPECTIVES	12	9	3	75%
FOGARTY	4	1	3	25%
RE-FOCUS	3	2	1	67%
ABE	1		1	0%
GOODWILL	1	1		100%
RICLAS	2	2		100%
CLRI	1	1		100%
LIVING INNOVATIONS	1	1		100%
West Bay	1	1		100%
<b>Total</b>	<b>89</b>	<b>37</b>	<b>52</b>	<b>42%</b>

transferred to CWS from Goodwill) 70% were determined to be unacceptable. DDD reports their finding that that CDPs typically do not align with the Individual Support Plan (ISP)

and individuals' daily activities do not reflect the CDP/ISP plan goals. The division further reports that some plans are well done but are not being implemented in a manner that aligns with the participant's interests. DDD will continue to provide oversight and technical assistance to CWS to improve the alignment of plans, rewrite plans that are inadequate, and work on implementing plans for employment and integrated day activities. DDD required CWS to provide a plan outlining the steps it will take to improve CDP quality and the alignment of services with goals identified in individuals' CDPs with the services that they receive. DDD stated its intention to ensure all identified CDP/PCP issues are resolved by August 31, 2017.

**Assessment: Requirement Not Met.** DDD completed its review of CDPs at CWS by July 31, 2017 as required by this provision. However, identified problems in the quality and alignment of the CDPs at CWS were not resolved by August 31, 2017 as planned. This provision will be fully met when CDP/PCP content and alignment issues are fully resolved for all TTP Target Population members. It is recognized that DDD staff are working to address this issue. The State is requested to notify the Monitor when CDP/PCP goals and services are in alignment for all active TTP Target Population members. DDD is also requested to provide the Monitor with a brief summary report on the status of person-centered career development plans for the 8 TTP Target Population members who are not served by CWS and whose CDP/ISPs were determined to be unacceptable. It is requested that the report be provided by September 8, 2017.

- 3. DDD will prioritize placement through its performance-based person centered supported employment program (PCSEPP) for all interested active class members before June 30, 2017. This will include outreach to each member identified in this order as not employed (46) to confirm interest in participation or satisfaction with current supported employment services received through the PCSEPP.**

**Status:** DDD contacted the 46 individuals identified as not being employed to confirm their satisfaction with their current services and interest in participation in the State's PCSEP program. Table 2, provided by DDD, summarizes the status of the 46 individuals. Of the 46

individuals, 5 persons are employed and two have received job offers. A total of 21 individuals were determined to be candidates for the PCSEP program (see shaded section).

**Assessment: Requirement Met**

DDD is requested to indicate the types of integrated or segregated day services to be provided to the individuals in each of the categories listed in Table 2. For example, individuals with tentative job offers would be expected to receive supported employment services, individuals who choose to retire and individuals with dementia or Alzheimer’s disease would be expected to continue to receive integrated day services, etc.

4. **DDD will provide continued oversight of the CWS quality management plan, in compliance with the requirements of the ISA and Consent Decree, as well as technical assistance in the areas of supported employment, integrated day, CDP development, and staff training on person-centered planning. ORS will assist DDD with quality management and review on ORS-related services.**

<b>Table 2 Employment Status of ISA Target Population Members</b>	
<b>ISA Members Not Employed as of May 31, 2017</b>	<b>46</b>
Currently Employed	5
Tentative job offers (job carving details being worked out)	2
Looking for work	15
Doing vocational exploration	6
Stabilizing medical condition (precursor to employment)	2
Wish to retire	2
Variances – Total	6
• <i>Do not want to discuss employment-day only variance</i>	4
• <i>Working in volunteer position, does not want paid employment</i>	1
• <i>Working in segregated, provider paid setting, wants to remain there until he retires (is 64)</i>	1
Withdrew from services	6
Diagnosed with dementia/Alzheimer’s	2

**Status:** On May 10, 2017, BHDDH notified CWS of its intent to revoke all licenses issued to CWS, in part, due to CWS’ failure to implement integrated person centered services required by the ISA. BHDDH and CWS engaged in a pre-hearing process resulting in the development of a plan of correction. Following a pre-hearing conference, BHDDH issued CWS a 90-day conditional license effective July 1, 2017. BHDDH will not extend the conditional license period past December 31, 2017. DDD and BHDDH Licensing staff perform monthly regulatory reviews of CWS. Unannounced monthly visits occur at the

various locations in which programming occurs and are coordinated with the division's Associate Director of Program Performance. CWS is assessed on regulatory compliance that addresses safety standards, staffing, plan of correction progress and programming. ORS vocational rehabilitation counselor liaisons meet at least monthly with CWS to discuss cases and recommend next steps for the participants active with ORS.

DDD is providing ongoing oversight of CWS services and technical assistance to ensure that the supports being offered are consistent with the quality requirements of the ISA and Consent Decree, and the goals identified in each person's CDP/ISP. Progress is reviewed at least weekly during on-site visits, telephone calls and email correspondence. DDD's Associate Director of Employment Services, provides on-site technical assistance to CWS job developers, reviewing day activities and observing person-centered planning meetings. The division's Associate Director of Program Performance reviews documentation, provides feedback, and discusses program elements with CWS managers twice each month. Monthly meetings are held with DDD senior management to review progress on CWS' plan of correction. CWS has brought on new staff including a Deputy Director, a job developer and a new position with responsibilities for data and reporting.

**Assessment: Requirements Met**

5. **DDD will develop guidance and standards for integrated day services by June 30, 2017. This guidance will be reviewed internally and externally and will be disseminated through the provider network no later than July 30, 2017.**

**Status:** Draft guidance and standards were developed for integrated day services in June and released for review and comment to provider agencies, advocates, and community partners, as well as to the Monitor and the Department of Justice. DDD received some conflicting comments from providers and, as a result, extended the comment period to include discussion with the providers as well as community partners and advocates. DDD is reviewing comments and plans to finalize the guidance and standards by the end of August 2017.

**Assessment: Requirements Conditionally Met.** DDD appropriately extended the comment period to gather additional feedback from provider agencies and others. This provision will be met when the final guidance and standards are issued.

6. **DDD will require completion of Personal Action Towards Health (PATH) and McGill Acton Planning Systems (MAPS) for all Birch and TTP members at CWS who have not been provided this self-discovery opportunity by July 30, 2017.**

**Status:** MAPS and PATH plans have been completed for all Birch and TTP members at CWS who agreed to participate in the process. Follow-up meetings are being held to ensure alignment with current CDPs and ISPs. Four individuals declined to participate in MAPS/PATH activities. Three of the four are employed and are interested only in job retention services. The fourth person has refused MAPS/PATHS and other CWS services.

**Assessment: Requirements Met.**

7. **DDD will have a fully developed interim and long-term quality improvement plan, in accord with the requirements of the ISA and Consent Decree, complete with timelines and strategies by July 30, 2017. ORS will assist DDD with implementation and monitoring on ORS-related services.**

**Status:** DDD developed the interim and long term Quality Improvement Plan as required (see attached).

**Assessment: Requirement Met.**

8. **DDD will complete an in-depth review of all class members by June 30, 2017 to ensure the validity of data from multiple sources.**

**Status:** DDD reviewed TTP class members to verify the validity and reliability of the demographic, employment, and other information related to the Look Back population. DDD is now reviewing the monthly data reports prepared by CWS and is working to

address inconsistencies that have existed among the data sources. The division reported that while the data have improved problems continue to exist with the information provided by CWS. DDD continues to work with the agency to improve data reporting, consistent with the quality management plan.

**Assessment: Requirements Not Met.** DDD has taken steps to improve both the validity and reliability of the service related information provided by CWS in the TTP Monthly Data Reports but noted in a recent conference call with the Parties that the quality and accuracy of the information being reported continues to be inconsistent. DDD is requested to continue to verify all data from CWS and provide the Monitor with copies of corrected TTP Monthly Reports for the months of June and July by September 15, 2017.

9. **DDD will amend its contract with Sherlock Center to include \$50,000 for FY 18 for the purpose of benefits planning.**

**Status:** The amendment to the contract with the Sherlock Center was drafted in July and submitted to Rhode Island College for signature. In the meantime, referrals and benefits planning continue under an active purchase order and contract.

**Assessment: Requirement Conditionally Met.** This provision will be met when DDD confirms that the contract amendment has been fully executed.

Respectfully Submitted,  
Charles Moseley EdD  
Court Monitor  
September 1, 2017