

**DBHDS**

Virginia Department of  
**Behavioral Health and  
Developmental Services**

# **EMPLOYMENT FIRST & The DOJ Settlement Agreement**

Employment First Summit

October 2, 2012

Heidi Dix

Assistant Commissioner

Department of Behavioral Health and Developmental Services

---

# Virginia's Intellectual Disability (ID) & Developmental Disability (DD) System

- Statewide training center censuses have dropped more than 40 percent since 2000; today, they serve approximately 949 individuals.
- The statewide average training center cost is \$216,000 per person annually, including direct services, administrative supports and high infrastructure requirements.
- 8,621 people now receive an ID Waiver. The waiting list is 5,932; of these, 3,316 are urgent. 800 people are on the DD Waiver and the waiting list is 1,200.
- The statewide average community cost is \$138,000 per person annually for those with comparable residential care needs as training center residents.

# U.S. Department of Justice (DOJ) Investigation

- 2008: DOJ started investigating Central Virginia Training Center (CVTC) pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA).
- 2010: DOJ expanded to cover VA's compliance with the Americans with Disabilities Act (ADA) and the U.S. Supreme Court *Olmstead* ruling.
- February 2011: DOJ concluded VA fails to provide services in the most integrated setting appropriate to individuals' needs.

# Reaching a Settlement Agreement

- March 2011: Upon advice from the Office of the Attorney General, Virginia entered into negotiations with DOJ to reach a settlement.
- Virginia had two overarching goals: 1) To ensure the agreement results in the best possible outcomes for Virginians with ID and DD, and 2) To ensure the agreement is fiscally responsible.
- January 26, 2012: Virginia and DOJ reached a settlement agreement.
- On March 6, 2012, Judge issued a temporary order to move forward with the Agreement
- August 23, 2012, Judge's final signature

# Target Population

- Individuals with ID/DD who meet any of the following:
  - Currently reside at any of the training centers;
  - Meet the criteria for the Intellectual Disability (ID) waiver or Developmental Disability (DD) waiver wait lists; or,
  - Currently reside in a nursing home or Intermediate Care Facility (ICF).

# Settlement Agreement Requirements

- Increasing waiver slots
- Developing an Individual and Family Supports Program
- Providing Crisis Services
- Establishing Employment First policy and plans
- Creating Integrated Housing Options
- Improving discharges processes
- Improving quality and risk management activities

# FY12 Agreement Milestones

Milestone (March 6, 2012 – June 30, 2012)	Due Date
60 ID waiver slots for individuals leaving training centers	June 30, 2012
275 community ID waiver slots for individuals on urgent wait list	June 30, 2012
150 Individual and Family Developmental Disabilities (DD) waiver slots	June 30, 2012
Train CSB emergency services personnel on new crisis response system	June 30, 2012
At least one mobile crisis team in each Region to respond to crises on-site within three hours	June 30, 2012
At least one crisis stabilization program in each Region	June 30, 2012
Implement discharge and transition planning processes at all training centers	June 30, 2012
All individuals residing in a training center shall have a discharge plan	June 30, 2012
Collect and analyze reliable data from at least one of eight domains	June 30, 2012

# FY13 Agreement Milestones (1)

Milestone (July 1, 2012– June 30, 2013)	Due Date
160 ID waiver slots for individuals leaving training centers	June 30, 2013
225 community ID waiver slots for individuals on urgent wait list (25 targeted for youth in large ICFs or NFs)	June 30, 2013
25 Individual and Family Developmental Disabilities (DD) waiver slots (15 targeted for youth in large ICFs or NFs)	June 30, 2013
700 individuals receiving services from the Individual and Family Supports Fund	June 30, 2013
At least two mobile crisis team in each Region to respond to crises on-site within two hours	June 30, 2013
Additional crisis stabilization units as determined necessary by the Commonwealth	June 30, 2013
Employment First implementation plan to increase integrated date opportunities for individuals in the target population	September 6, 2012
A plan to cease residential operations at four of five training centers by FY2021	March 6, 2013
A plan to increase access to independent living options	March 6, 2013



# FY13 Agreement Milestones (2)

Milestone (July 1, 2012– June 30, 2013)	Due Date
Establish a one-time \$800,000 fund to provide and administer rental assistance in accordance with plan to increase independent living options	March 6, 2013
Collect and analyze reliable data from several of eight domains	June 30, 2013
Commonwealth shall collect measures from CSBs and other community providers	March 6, 2013
Case managers shall meet with individuals face to face at least every 30 days if the individual meets certain criteria	March 6, 2013
Commonwealth shall collect data on the number, type, and frequency of case manager contacts	March 6, 2013
Core-competency based training curriculum for case managers	March 6, 2013
More frequent licensing inspections for providers who support individuals meeting certain criteria	March 6, 2013
Licensure process assesses adequacy of individualized supports and services provided to person receiving supports under the Agreement	March 6, 2013

# Serving Individuals in the Most Integrated Setting

*“To prevent the unnecessary institutionalization of individuals with ID/DD and to provide them opportunities to live in the most integrated settings appropriate to their needs consistent with their informed choice, the Commonwealth shall develop and provide the community services described...”*

# Employment First Requirements (1)

- The Commonwealth shall maintain its membership in the State Employment Leadership Network (“SELN”) established by the National Association of State Developmental Disability Directors.
- The Commonwealth shall establish a state policy on Employment First for the target population and include a term in the CSB Performance Contract requiring application of this policy.

# Employment First Requirements (2)

The Employment First policy shall, at a minimum, be based on the following principles:

- 1) individual supported employment in integrated work settings is the first and priority service option for individuals with intellectual or developmental disabilities receiving day program or employment services from or funded by the Commonwealth;
- (2) the goal of employment services is to support individuals in integrated work settings where they are paid minimum or competitive wages; and
- (3) employment services and goals must be developed and discussed at least annually through a person-centered planning process and included in ISPs.

# Employment First Requirements (3)

- Within 180 days of this Agreement, the Commonwealth shall develop, as part of its Employment First policy, an implementation plan to increase integrated day opportunities for individuals in the target population, including supported employment, community volunteer activities, community recreational opportunities, and other integrated day activities.
- Provide regional training on the Employment First policy and strategies throughout the Commonwealth; and

- Establish, for individuals receiving services through the HCBS waivers:

Annual baseline information regarding:

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

- Establish, for individuals receiving services through the HCBS waivers:

Targets to meaningfully increase:

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

# Employment First Requirements (6)

- Regional Quality Councils, shall review data regarding the extent to which the targets identified are being met.
- These data shall be provided quarterly to the Regional Quality Councils and the Quality Management system by the providers.
- Regional Quality Councils shall consult with those providers and the SELN regarding the need to take additional measures to further enhance these services.
- The Regional Quality Councils shall annually review the targets set and shall work with providers and the SELN in determining whether the targets should be adjusted upward.



# Employment First: Recent Efforts in Virginia

- **2008 – Virginia joins State Employment Leadership Network**
- **2009 – SELN Strategic Assessment**
- **2010 – DBHDS *Creating Opportunities* Plan**
- **2011 –**
  - **DBHDS hires dedicated Employment Services Coordinator**
  - **1<sup>st</sup> Employment First Summit**
  - **Governor Certificate of Recognition**
  - **Regional Employment First Trainings**
- **2012 –**
  - **Virginia signs Settlement Agreement with DOJ**
  - **General Assembly Joint Resolution 127**
  - **DBHDS Employment First Policy (currently draft)**
  - **2<sup>nd</sup> Employment First Summit**
  - **State Agency Leadership Summit (Nov/Dec)**

- Interagency Collaboration
  - Employment First Leadership Summit (meeting) – Commitment to collaborate on Employment First objectives
  - Align licensing, certification, accreditation and other standards to facilitate employment outcomes

- Training and Technical Assistance
  - Employment First Statewide Summit (annual)
  - Employment First Regional Summits
  - Set up dedicated website for Employment First
  - Develop Comprehensive system-wide supported employment practice training plan
  - Work Incentives & Benefits Counseling Intensive Training for Case Managers and service providers
  - Provide Trainings on Innovative Employment Models for Individuals with disabilities
  - Reach out to families and individuals with disabilities regarding employment first
  - Strategize on ways to reach out to business communities to educate and increase awareness of employing persons with disabilities

- Services and Service Innovation
  - Review and revise Waiver Day Support regulations to increase flexibility and emphasis on employment as the priority focus.
  - Allowable Services standardized to be in line with best practice and DARS employment services

- Financing and Contracting Methods
  - Develop braided funding procedures
  - Review and modify Waiver Employment rates and non-Waiver employment-related funding
  - Develop Medicaid funding streams for people with behavioral health diagnoses
  - Further develop Virginia's Use of Ticket to Work program
- Performance Measurement
  - Development of employment data gathering methodology
  - Establish Accurate Baseline of Employment Data
  - Develop 1-3 year employment outcomes goals

# Moving Forward

- Issue DOJ “Implementation Plan” data
  - Use data quarterly and annually to measure progress
  - Improve data collection and measures over time
- Leadership summit:
  - Moving from a DBHDS Strategic Plan to a Virginia Strategic Plan
  - Annual update to Virginia’s Strategic Plan