

DOJ Settlement Agreement

Overview

In 2012, Virginia entered into a settlement agreement (SA) with the US Department of Justice (DOJ), after a DOJ investigation alleged Virginia failed to provide services to individuals with Developmental Disabilities (DD) in the most integrated settings appropriate to their needs, as required by the Americans with Disabilities Act and US Supreme Court's Olmstead Decision. In eleven years of implementing the agreement, Virginia has substantially improved services for people with DD. DBHDS believes all processes needed to achieve compliance have been put into place, and they are being leveraged to drive continued quality improvement so metrics are met. However, reducing the DD waiver waiting list and expanding access to quality providers while implementing continuous quality improvement remain top priorities for DBHDS. It should be noted that the Commonwealth was issued an order to appear before the Court on January 29th to show cause why the Court should not hold it in contempt for failure to comply with the Consent Decree and Compliance Indicators in this case. (See <https://dojsettlementagreement.virginia.gov> for more information)

Background

- While the SA is with the Commonwealth, DBHDS has primary responsibility for execution of the SA and to ensure a quality community-based system of care. The primary tenets of the agreement are at the core of any well-functioning developmental services system. DBHDS' broad DOJ requirements include:
 - Quality and Risk Management
 - Community Provider Development, specifically ensuring support for individuals with complex needs
 - Behavioral Services
 - Integrated Health, focus on nursing
 - Employment
 - Independent Housing
 - Community-based Crisis Supports and Services

Issues

- Expanding access to quality providers to serve the DD population, specifically individuals with complex medical and behavioral needs
 - People with a dual behavioral health and DD diagnosis are at an increased risk for admissions to state mental health hospitals due to private providers' reluctance or unwillingness to serve the DD population, especially those with complex behavioral health needs.
- Ensure that individuals with the most complex needs receive the right supports and services and more providers of the most integrated services are available across the state. Provider network shortages are especially apparent across nursing, day, in-home, and personal care services.
- Recruiting and retaining case managers: 46 percent of individuals receiving case management services have had their case manager for under a year indicating high turnover rates. On average, case managers have caseloads of 31 individuals.
- Ensuring review processes are functioning appropriately to assess unmet need and to assure individuals are receiving quality supports and services

The Virginia Department of Behavioral Health and Developmental Services supports individuals by promoting recovery, self-determination, and wellness in all aspects of life.



Developmental Services & the DOJ Settlement Agreement



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- Expanding access to waiver supports and services for individuals currently on the waiver waitlist

Successes

- In eleven years of implementing the agreement, Virginia has substantially improved services for people with DD. The Commonwealth has closed four training centers, redesigned its waiver system, strengthened its community provider system, built extensive monitoring capabilities, a quality system, and added critical services.
- In July 2023, Virginia was relieved of 35 compliance indicators. Relief of these indicators also resulted in the Commonwealth being relieved of four provisions of the Settlement Agreement.
- As of the Independent Reviewer's December 2023 report, Virginia is in compliance with 251 of 282 compliance indicators (89%) of compliance indicators.

Initiatives

- The agency continues to work towards achieving and maintaining compliance with all compliance indicators as mandated by the DOJ Settlement Agreement.
- The Office of Provider Network Supports (OPNS) awarded \$181,175 to create integrated service options in underserved areas.
 - OPNS also continued to host quarterly provider round table and support coordinator meetings attended by 2,018 representatives to share updates, initiatives, and obtain stakeholder feedback and met with 100 unique providers seeking to diversify or expand services.
- The agency launched two issues resolution workgroups, one focused on the needs of individuals and families and one focused on the needs of providers. Both workgroups have developed recommendations for implementation to enhance supports and services for individuals with developmental disabilities.
- The Office of Integrated Health has launched initiatives to improve access to physical and dental health resources and to ensure the health needs of individuals with DD are being met.
- Ongoing work continues to increase access to education and improving healthcare literacy among individuals with DD and their supporters to expand awareness of available supports and how to access them

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