

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

Submitted By: Elizabeth Jones, Independent Reviewer

September 20, 2012

## INTRODUCTORY COMMENTS

This is the second Report issued on the status of compliance with the provisions of the Settlement Agreement in United States v. Georgia. The Report documents and discusses the State's efforts to meet obligations scheduled for completion by July 1, 2012.

In many respects, this second year has been one of foundation building, as the State continues its shift from a system based largely on institutional structures and resources to one that is consistent with the principles and operations of an integrated community-based system of supports. In the year ahead, it will be critical to continue a strong emphasis on the quality of the implementation decisions and the strategies required for sustainability.

As recognized in last year's Report, the tasks undertaken by the Department of Behavioral Health and Developmental Disabilities require a substantial commitment of leadership, energy and resources.

The Department has demonstrated very good faith in meeting its obligations. The leadership of the former Commissioner, Dr. Frank Shelp, and that of the newly appointed Commissioner, Mr. Frank Berry, is clearly evident and greatly appreciated.

The State Legislature continued to approve the funding required for the full implementation of the Settlement Agreement in the second year.

The Commissioner of the Department of Community Health and his staff have engaged in discussions with the Independent Reviewer regarding Medicaid funding and the licensing of certain residential services. Their accessibility and responsiveness has contributed towards a positive working relationship.

The staff of the Department of Behavioral Health and Developmental Disabilities have worked diligently and carefully to assist the Independent Reviewer with her requests for information and her questions about compliance efforts. The Settlement Coordinator, Pamela Schuble, has been forthright and generous in her responses and support of the Independent Reviewer's role. The initiation of periodic Parties' meetings has been extremely helpful to clarifying information and strengthening the collaboration towards the common interests embodied in the Settlement Agreement.

Once again, it is important to reiterate that Georgia continues to be fortunate to have an articulate and well-informed group of stakeholders who are deeply committed to the principles and goals of the Settlement Agreement and who are energized and eager to participate in its actual implementation. This stakeholder involvement continues to be critical to the reform envisioned by the Parties to the Settlement Agreement. As the next stages of compliance are reached, it is more important than ever that the community stakeholders have presence and voice in decision-making about their emerging community system.

Continuing attention to the partnership between the State's officers and its community citizens will greatly assist in sustaining and building upon the obligations contained in the Settlement Agreement. Commissioner Berry has expressed, to the Independent Reviewer and others, his commitment to that partnership.

**Summary of Compliance: Year Two**

Settlement Agreement Reference	Provision	Rating	Comments
<b>III</b>	<b>Substantive Provisions</b>		
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.	<b>Compliance</b>	The Commissioner of the Department of Behavioral Health and Developmental Disabilities has complied with this provision and has expressed his intent to develop community based alternatives to institutional care. There was no evidence to indicate that individuals with a developmental disability have been transferred between State Hospitals in contradiction of the commitment to cease admissions.
III.A.1.b	The State will make any necessary changes to administrative regulations and take best efforts to amend any statutes that may require such admissions.	<b>Compliance</b>	In House Bill 324, the State Legislature amended Chapter 4 of Title 37 of the Official Code of Georgia Annotated.
III.A.2.b.i(A)	By July 1, 2011, the State shall move 150 individuals with developmental disabilities from the State Hospitals to the community and the State shall create 150 waivers to accomplish this transition. In addition, the State shall move from the State Hospitals to the community all individuals with an existing and active waiver as of the Effective Date of this Agreement, provided such placement is consistent with the individual's informed choice. The State shall provide family supports to a minimum of 400 families of people with developmental disabilities.	<b>Compliance</b>	By July 1, 2011, the Department placed more than 150 individuals with a developmental disability into community residential settings supported by the Home and Community-Based Waiver. A sample of 48 individuals was reviewed. Identified concerns were referred to the Department and corrective actions were initiated. Nine of the 11 individuals hospitalized with an existing Waiver were discharged to community settings. Two individuals remained hospitalized. Delays in placement were attributed to family objections or to provider-related issues. The Department continued to pursue appropriate community placements for these two individuals. More than 400 individuals were provided with family supports. Because there was substantial compliance with this provision, a positive rating was given.

Settlement Agreement Reference	Provision	Rating	Comments
III.A.2.b.i(B)	Between July 1, 2011, and July 1, 2012, the State shall move 150 individuals with developmental disabilities from the State Hospitals to the community. The State shall create 150 waivers to accomplish this transition. The State shall also create 100 additional waivers to prevent the institutionalization of individuals with developmental disabilities who are currently in the community. The State shall provide family supports to an additional 450 families of people with developmental disabilities.	Compliance	The Department placed 164 individuals with a developmental disability into community residential settings supported by the Home and Community-Based Waiver. A statistically relevant sample of 48 individuals was reviewed. Identified concerns have been referred to the Department and corrective actions are being initiated. Although in compliance, it is recommended that the Department review its policies and guidance regarding expectations for community placement and to provide greater oversight of service coordination at the Regional level. The two hospitalized individuals referenced in the provision above have either been placed or have a placement in process. Two other individuals with existing and active Waivers at the time of the Settlement Agreement were rehospitalized. Those individuals were reviewed by a psychologist consulting with the Independent Reviewer. Community placements are being actively pursued; an experienced provider has been recruited. The Department issued 117 Waivers to avoid institutionalization of individuals with a developmental disability residing in the community. Family supports were provided for 2248 individuals through 38 provider agencies.
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.	Compliance	Of the 48 individuals reviewed in the sample, none were placed in host homes with more than two individuals or in congregate community living settings with more than four individuals. However, in 2 of the 48 cases reviewed, the individuals lived in residences adjacent to other individuals who had transitioned from a State Hospital. It is recommended that the Department review its expectations regarding siting in order to promote integration. The clustering of residences by providers does not foster opportunities for social interaction with non-disabled people.
III.A.2.b.iii(A)	Assembling professionals and non-professionals who provide individualized supports, as well as the individual being served and other persons important to the individual being served, who, through their combined expertise and involvement, develop Individual Service Plans, as required by the State's HCBS Waiver Program, that are individualized and person centered.	Compliance	Individual Service Plans were reviewed for the 48 individuals in the sample. The format used by the Department focused on the needs and preferences of each individual. Training in person-centered planning is required by the Department.

Settlement Agreement Reference	Provision	Rating	Comments
III.A.2.b.iii(B)	Assisting the individual to gain access to needed medical, social, education, transportation, housing, nutritional, and other services identified in the Individual Service Plan.	Non-compliance	The review of 48 individuals found that critical supports were missing. Individual reviews were referred to the Department due to rights violations, unsanitary environments, inadequate staffing, unsatisfactory day programs, psychotropic drug use and other concerns. The Department has been responsive and is issuing corrective action plans.
III.A.2.b.iii(C)	Monitoring the Individual Service Plan to make additional referrals, service changes, and amendments to the plans as identified as needed.	Non-compliance	Although there were Support Coordinators assigned to each individual in the sample, as noted above, needed supports were found to be lacking. Department staff have been working with the Independent Reviewer to address these concerns and appropriate corrective actions are being taken as a result.
III.A.2.c.i(A)	By July 1, 2012, the State will have six mobile crisis teams for persons with developmental disabilities.	Compliance	There are 12 mobile crisis teams. According to the Department's data, there were 806 mobile crisis team calls responded to across all Regions.
III.A.2.c.ii(B)(1)	By July 1, 2012, the State will have five Crisis Respite Homes for individuals with developmental disabilities.	Compliance	There are 11 Crisis Respite Homes, including one for children. One individual in the sample of 48 was reviewed in his crisis home; supports were adequate and individualized.
III.A.4.b	By the Effective Date of this Agreement, the State shall use a CMS approved Quality Improvement Organization ("QIO") or QIO-like organization to assess the quality of services by community providers.	Compliance	The Department utilized the services of the Delmarva Foundation to design and implement a quality assurance review process. The work of Delmarva was expanded to conduct person centered reviews (PCR) of individuals leaving State Hospitals. Delmarva also assesses the quality of services by community providers. The Department participates in the National Core Indicator surveys. The Independent Reviewer has reviewed these reports.
III.A.4.d	The State shall assess compliance on an annual basis and shall take appropriate action based on each assessment.	Compliance	The Delmarva Foundation issues annual reports assessing the quality of services by community providers for individuals with a developmental disability. The most recent report has been completed and is in the process of being posted on the Department's website.

Settlement Agreement Reference	Provision	Rating	Comments
III.B.1.c	Pursuant to the Voluntary Compliance Agreement with Health and Human Services, the State established a Mental Health Olmstead List. The State shall ensure that all individuals on the Mental Health Olmstead List as of the Effective Date of this Agreement will, if eligible for services, receive services in the community in accordance with this Settlement Agreement by July 1, 2011. The Parties acknowledge that some individuals on the Mental Health Olmstead List are required to register as sex offenders pursuant to O.C.G.A. § 42-1-12 et seq. The Parties further acknowledge that such registration makes placement in the community more difficult. The Parties may by written consent extend the application of the date set forth in this paragraph as it applies to such individuals. The written consent described in this paragraph will not require Court approval.	Compliance	At the time the Settlement Agreement was signed, there were 27 individuals on the Olmstead List. All of these individuals were discharged from the State Hospitals and were provided community services.
III.B.2.a.i(G)	All ACT teams will operate with fidelity to the Dartmouth Assertive Community Treatment model.	Not scored	The Parties, with concurrence by the Independent Reviewer, requested that the Court defer evaluation of this provision. The Court approved this request on August 29, 2012 with explicit instructions regarding reporting, root cause analysis and corrective action plans. These instructions are being complied with by the Department with close involvement of the Independent Reviewer and her expert consultants.
III.B.2.a.i(H)(1)	By July 1, 2011, the State shall have 18 Assertive Community Treatment teams.	Compliance	The Department has funded 18 Assertive Community Treatment teams.
III.B.2.a.i(H)(2)	By July 1, 2012, the State shall have 20 Assertive Community Treatment teams.	Not scored	The State has funded 20 Assertive Community Treatment teams. However, change in the composition of the teams is underway. The Department is proceeding with remedial action as required by the Court's Order and with consultation by the Independent Reviewer, the Department of Justice and other interested stakeholders.
III.B.2.a.ii(C)(1)	By July 1, 2012, the State will have two Community Support Teams.	Compliance	The State has established two Community Support Teams. Although one team was transferred to another provider beginning in FY13, both teams functioned and provided services from the time of their contract. The two teams supported a total of 71 individuals in FY12.
III.B.2.a.iii(D)(1)	By July 1, 2011, the State will have one Intensive Case Management team.	Compliance	The Department has established two Intensive Case Management teams.
III.B.2.a.iii(D)(2)	By July 1, 2012, the State will have two Intensive Case Management teams.	Compliance	The Department has established two Intensive Case Management teams. The two teams supported a total of 387 individuals in FY12.
III.B.2.a.iv(C)(1)	By July 1, 2012, the State will have five Case Management service providers.	Compliance	The Department has established five Case Management service providers. Case Management services were provided to 257 individuals in FY12.
III.B.2.b.ii(B)(1)	The State will establish one Crisis Stabilization Program by July 1, 2012.	Compliance	The Department has established two Crisis Stabilization Programs.

Settlement Agreement Reference	Provision	Rating	Comments
III.B.2.b.iii(A)	Beginning on July 1, 2011, the State shall retain funding for 35 beds in non-State community hospitals without regard as to whether such hospitals are freestanding psychiatric hospitals or general, acute care hospitals.	Compliance	The Department has funded hospital bed days in five community hospitals.
III.B.2.b.iv(A)	The State shall operate a toll-free statewide telephone system for persons to access information about resources in the community to assist with a crisis ("Crisis Call Center"). Such assistance includes providing advice and facilitating the delivery of mental health services.	Compliance	The Georgia Crisis and Access Line operated by Behavioral Health Link provided these services.
III.B.2.b.iv(B)	The Crisis Call Center shall be staffed by skilled professionals 24 hours per day, 7 days per week, to assess, make referrals, and dispatch available mobile services. The Crisis Call Center shall promptly answer and respond to all crisis calls.	Compliance	The Georgia Crisis and Access Line complied with these requirements.
III.B.2.c.ii(B)(1)	By July 1, 2011, the State will provide a total of 100 supported housing beds.	Compliance	Although the Department provided the requisite housing vouchers, concern was noted about the review of eligibility and access for hospitalized individuals.
III.B.2.c.ii(B)(2)	<b>By July 1, 2012, the State will provide a total of 500 supported housing beds.</b>	Compliance	<b>The State has exceeded this obligation. (See Consultant's report.) The Department awarded 648 housing vouchers and reassessed its prioritization for these awards. Further collaboration is planned between the Independent Reviewer and the Department to further analyze referrals for the housing vouchers.</b>
III.B.2.c.ii(C)(1)	By July 1, 2011, the State will provide Bridge Funding for 90 individuals with SPMI. The State will also commence taking reasonable efforts to assist persons with SPMI to qualify in a timely manner for eligible supplemental income.	Compliance	The Department provided Bridge Funding as required.
III.B.2.c.ii(C)(2)	<b>By July 1, 2012, the State will provide Bridge Funding for 360 individuals with SPMI.</b>	Compliance	<b>The State has exceeded this obligation. (See Consultant's report.) The Department provided Bridge Funding for 568 individuals.</b>
III.B.2.d.iii(A)	By July 1, 2011, the State shall provide Supported Employment services to 70 individuals with SPMI.	Compliance	The Department provided Supported Employment services to more than 70 individuals with SPMI. Since individuals were assigned to the Supported Employment providers in May, only eight were employed by July, 2011. A higher rate of employment will be expected next year.
III.B.2.d.iii(B)	<b>By July 1, 2012, the State shall provide Supported Employment services to 170 individuals with SPMI.</b>	Compliance	<b>The Department has met this obligation. Supported Employment services were provided to 181 individuals as of June 30, 2012. (See Consultant's report.) A Memorandum of Understanding has been signed between DBHDD and the Department of Vocational Services. The Department is in the process of preparing a written plan, with stakeholder involvement, regarding the provision of Supported Employment. In FY12, 51 individuals gained competitive employment.</b>
III.B.2.e.ii(A)	<b>By July 1, 2012, the State shall provide Peer Support services to up to 235 individuals with SPMI.</b>	Compliance	There are 3000 consumers enrolled; there are 72 Peer Support sites in Georgia.

Settlement Agreement Reference	Provision	Rating	Comments
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.	Non-compliance	Compliance is expected in Fall, 2012. One child has been placed in a host family and is doing well; the second placement has been delayed due to the health status of the individual. However, placement plans are proceeding pending her recovery. The third individual is medically unstable and cannot be moved.
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.	Compliance	There was no evidence of inappropriate transfers from one institution to another. Pending the anticipated closure of Central State Hospital, two individuals were transferred to another institution; they remain institutionalized. The first individual was transferred due to her immigration status. The second individual was transferred due to behavioral concerns. On July 2, 2012, he was reviewed by a psychologist consulting to the Independent Reviewer. Community placement plans are dependent on his stabilization and the identification of an appropriate provider.
III.C.3.a.i	By January 1, 2012, the State shall establish the responsibilities of community service boards and/or community providers through contract, letter of agreement, or other agreement, including but not limited to the community service boards' and/or community providers' responsibilities in developing and implementing transition plans.	Compliance	Contract language delineates responsibility for developing and implementing transition planning.
III.C.3.a.ii	By January 1, 2012, the State shall identify qualified providers through a certified vendor or request for proposal process or other manner consistent with DBHDD policy or State law, including providers in geographically diverse areas of the State consistent with the needs of the individuals covered by this Agreement.	Compliance	This provision has been implemented.



Settlement Agreement Reference	Provision	Rating	Comments
III.C.3.a.iii	By January 1, 2012, the State shall perform a cost rate study of provider reimbursement rates.	Compliance	The cost rate study has been completed and is under advisement by the Commissioner.
III.C.3.a.iv	By January 1, 2012, the State shall require community service boards and/or community providers to develop written descriptions of services it can provide, in consultation with community stakeholders. The community stakeholders will be selected by the community services boards and/or community providers.	Compliance	Two websites have been developed to provide comprehensive information and description of statewide services. Individual community service boards have information on their websites regarding services. Stakeholders are included on the community services boards.
III.C.3.a.v	By January 1, 2012, the State shall require and/or provide training to community service boards and/or community providers so that services can be maintained in a manner consistent with this Agreement.	Compliance	There are bi-monthly provider meetings for each region. Additionally, the Department hosts two meetings per year; the Regional Offices provide technical assistance; Delmarva meets with providers and provides technical assistance.
III.C.3.a.vi	By January 1, 2012, the State shall utilize contract management and corrective action plans to achieve the goals of this Agreement and of State agencies.	Compliance	Evidence of compliance is documented by the actions taken to review ACT services.
III.C.3.b	Beginning on January 1, 2012 and on at least an annual basis, the State shall perform a network analysis to assess the availability of supports and services in the community.	Not scored	Pending review of the Quality Management system. Under the Court's August 29, 2012 Order, the Department's provisional Quality Management system report is not scheduled to be submitted until October 1, 2012. The State's semi-annual Quality Management reports begin on February 1, 2013, and the Quality Management system will be reviewed in more detail in next year's monitoring report.
III.D.1	By July 1, 2011, the State shall have at least one case manager and by July 1, 2012, at least one transition specialist per State Hospital to review transition planning for individuals who have challenging behaviors or medical conditions that impede their transition to the community, including individuals whose transition planning team cannot agree on a transition plan or does not recommend that the individual be discharged. The transition specialists will also review all transition plans for individuals who have been in a State Hospital for more than 45 days.	Compliance	Case Managers and Transition Specialists were assigned at each State Hospital. There is evidence that individuals with challenging behaviors and medical conditions are being referred to and placed in community settings. The discharge planning for individuals in forensic units requires further review.

Settlement Agreement Reference	Provision	Rating	Comments
III.D.3.a	For persons identified in the developmental disability and mental illness target populations of this Settlement Agreement, planning for transition to the community shall be the responsibility of the appropriate regional office and shall be carried out through collaborative engagement with the discharge planning process of the State Hospitals and provider(s) chosen by the individual or the individual's guardian where required.	Compliance	There was evidence of coordination between the Regional Office and State Hospital. Reorganization of this responsibility is under consideration by the new Commissioner of DBHDD. The Independent Reviewer has been apprised of these discussions.
III.D.3.b	The regional office shall maintain and provide to the State Hospital a detailed list of all community providers, including all services offered by each provider, to be utilized to identify providers capable of meeting the needs of the individual in the community, and to provide each individual with a choice of providers when possible.	Compliance	The Regional Offices provided a list to the State Hospitals of all community providers.
III.D.3.c	The regional office shall assure that, once identified and selected by the individual, community service boards and/or other community providers shall actively participate in the transition plan (to include the implementation of the plan for transition to the community).	Compliance	In the sample reviewed, there was evidence of participation by community providers.
III.D.3.d	The community service boards and/or community providers shall be held accountable for the implementation of that portion of the transition plan for which they are responsible to support transition of the individual to the community.	Compliance	Once problems were identified, community service boards and/or community providers were held accountable. The failure to identify problems has been evaluated under Service Coordination.
<b>IV</b>	<b>Quality Management</b>		
IV.A	By January 1, 2012, the State shall institute a quality management system regarding community services for the target populations specified in this Agreement. The quality management system shall perform annual quality service reviews of samples of community providers, including face-to-face meetings with individuals, residents, and staff and reviews of treatment records, incident/injury data, and key-indicator performance data.	Partial Compliance	The Quality Management system has been initiated by DBHDD. Delmarva performs annual quality service reviews as required for individuals with developmental disabilities. As evidenced by its updated plan of July 1, 2012, the Department is proceeding to refine its Quality Management system for Behavioral Health. Pursuant to the Court's Order of August 29, 2012, reporting on the Quality Management system has been extended until February 1, 2013.

Settlement Agreement Reference	Provision	Rating	Comments
IV.A.1	The system's review shall include the implementation of the plan regarding cessation of admissions for persons with developmental disabilities to the State Hospitals.	Not scored	Under the Court's August 29, 2012 Order, the Department's provisional Quality Management system report is not scheduled to be submitted until October 1, 2012. The State's semi-annual Quality Management reports begin on February 1, 2013, and the Quality
IV.A.2	The system's review shall include the service requirements of this Agreement.	Not scored	Under the Court's August 29, 2012 Order, the Department's provisional Quality Management system report is not scheduled to be submitted until October 1, 2012. The State's semi-annual Quality Management reports begin on February 1, 2013, and the Quality Management system will be reviewed in more detail in next year's monitoring report.
IV.A.3	The system's review shall include the contractual compliance of community service boards and/or community providers.	Not scored	Under the Court's August 29, 2012 Order, the Department's provisional Quality Management system report is not scheduled to be submitted until October 1, 2012. The State's semi-annual Quality Management reports begin on February 1, 2013, and the Quality Management system will be reviewed in more detail in next year's monitoring report.
IV.A.4	The system's review shall include the network analysis.	Not scored	Under the Court's August 29, 2012 Order, the Department's provisional Quality Management system report is not scheduled to be submitted until October 1, 2012. The State's semi-annual Quality Management reports begin on February 1, 2013, and the Quality Management system will be reviewed in more detail in next year's monitoring report.
IV.B	The State's quality management system regarding community services shall analyze key indicator data relevant to the target population and services specified in this Agreement to measure compliance with the State's policies and procedures.	Not scored	Under the Court's August 29, 2012 Order, the Department's provisional Quality Management system report is not scheduled to be submitted until October 1, 2012. The State's semi-annual Quality Management reports begin on February 1, 2013, and the Quality Management system will be reviewed in more detail in next year's monitoring report.
IV.C	Beginning on July 1, 2012 and ending on July 1, 2014, the State's quality management system shall create a report at least once every six months summarizing quality assurance activities, findings, and recommendations. The State shall make them publicly available on the DBHDD website.	Not scored	Under the Court's August 29, 2012 Order, the Department's provisional Quality Management system report is not scheduled to be submitted until October 1, 2012. The State's semi-annual Quality Management reports begin on February 1, 2013, and the Quality Management system will be reviewed in more detail in next year's monitoring report.
IV.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.	Compliance	The Independent Reviewer and the United States were notified of deaths. Questions about deaths are being discussed with the Department. Under the direction of the DBHDD Medical Director, a community-based mortality review committee is being created and implemented. The protocol has been developed but not yet authorized.

## SUMMARY OF RECOMMENDATIONS

Based on the findings documented in the Summary of Compliance, the following recommendations are offered to the State for consideration as it continues its work into the next year:

1. Consider providing training to Department staff and providers on “social role valorization” and more clearly articulate expectations regarding the standards for community placement. This values-based training focuses on developing and sustaining community membership for individuals who have been denied opportunities for meaningful participation in their communities. As the Department continues to establish new community-based services and supports, such values-based training could be helpful in designing and ensuring maximum opportunity for interaction with non-disabled people.
2. It is recommended that the Department examine the reasons why host homes are not used more frequently for community placements. As demonstrated by current and past site visits, host home placements generally afforded increased individualization and greater likelihood of social integration.
3. Consider strategies to more clearly articulate and document the plan for sustaining the structural and programmatic accomplishments resulting from the Settlement Agreement.
4. In order to ensure equality of access for all individuals in the target groups, work with the Independent Reviewer to analyze referral of supported housing vouchers and Bridge Funding.
5. In conjunction with the Independent Reviewer, review the long-term arrangements for ensuring the availability of housing resources in each of the next three years.
6. In collaboration with the Independent Reviewer, determine if further clarity is needed to ensure that the “ineligibility for any other benefits” is uniformly understood and applied to all applicable benefits.
7. In conjunction with the Independent Reviewer, review any potential barriers to community placement for individuals awaiting discharge from forensic units.
8. Consider the use of housing vouchers for individuals with developmental disabilities placed under the Settlement Agreement.
9. Develop, with stakeholder input, a written plan regarding the implementation of Supported Employment services.
10. Share the findings of the cost rate study, as well as the data and the calculation process used to complete this study, with providers and other stakeholders.
11. Review training curriculum to ensure that all of the defined principles of evidence-based Supported Employment are addressed. Provide access to trainers who can model skills for employment specialists. Specific and explicit fidelity expectations and expectations related to employment outcomes should be revisited with Supported Employment providers.

12. Consider convening Supported Employment coalition meetings in rotating Regions across the State so that providers have the opportunity to attend some meetings in person.
13. Ensure that the outcomes from corrective action plans resulting from critical incidents are transmitted promptly to the Independent Reviewer and the Department of Justice.
14. Ensure that consents for psychotropic and other medications are documented prior to transition from State Hospitals.

## **DISCUSSION OF COMPLIANCE FINDINGS**

### **Methodology**

For each compliance requirement, the Department of Behavioral Health and Developmental Disabilities was asked to provide data and documentation of its work. The Department's progress in meeting the provisions of the Settlement Agreement was reviewed in work sessions and Parties' meetings throughout the year; through discussions with providers and community stakeholders; and through site visits to community residences, day programs, Supported Employment programs, supported apartments, Assertive Community Treatment team sites, county jails and shelters for homeless individuals.

Expert consultants were retained to assist with the review of a random sample of forty-eight individuals with a developmental disability who were placed from State Hospitals into the community. In April, in preparation for these reviews, the Department and the Independent Reviewer revised and agreed upon the monitoring tool previously utilized in the Report for Year One. A section on behavioral supports was developed and added to the monitoring tool.

The random sample of forty-eight individuals had a confidence level of 90%. A proportional random sampling method was used to ensure representation across all Regions.

The reports issued from the reviews of the individuals in the sample have been distributed to the Parties. The Department of Behavioral Health and Developmental Disabilities is in the process of analyzing these reports and has instructed its Regional staff to take corrective actions, as appropriate.

A nurse consultant to the Independent Reviewer reviewed the plans for the placement of two of the three institutionalized minors. (The third young woman is medically unstable and cannot be moved at this time.) She worked closely with Department staff to assess the requirements for a successful transition and visited the youngest individual after she moved in with her host family. The second placement was anticipated in September but has been delayed due to the individual's recent illness. However, the plans for this placement continue to move forward in anticipation of her recovery.

Two expert consultants were retained to assist the Independent Reviewer in evaluating the Department's compliance with the Settlement Agreement provisions regarding Supported Employment,

Supported Housing and Bridge Funding. The State Health Authority Yardstick (SHAY), a tool developed at Dartmouth University, was used for the evaluation of Supported Employment services provided under the Settlement Agreement. The reports from each of these evaluations have been provided to the Parties.

A third expert consultant was retained to document the Department's progress in establishing Assertive Community Treatment (ACT) teams. Her report has been shared with the Parties. Although the Department's efforts are proceeding with due diligence, it became evident that additional time and guidance was needed to ensure adherence to the expected standards by all teams. Consequently, the Parties, with concurrence of the Independent Reviewer, requested that the Court approve an extension of the timelines for the evaluation of this provision. For similar reasons, an extension was requested for the review to be conducted by the Independent Reviewer regarding the implementation of the Quality Management system. A status conference regarding these motions was held before the Honorable Charles A. Pannell, Jr., on August 28, 2012.

The Court's Order was issued on August 29, 2012. In part, it affirms that all ACT teams will operate with fidelity to the Dartmouth Assertive Community Treatment model. In order to provide the State with the flexibility to correct any perceived deficiencies in the ACT teams required to be created under the Settlement Agreement, it mandates that the Independent Reviewer shall examine and review the performance of the ACT teams by July 1, 2012, but that any determination regarding compliance with the fidelity standards be deferred until July 1, 2013. In addition, the State is required to conduct a root cause analysis of any perceived deficiencies in the ACT teams and to develop a corrective action plan, including timelines. Quarterly reporting on the corrective action plan is required until July 1, 2013. In addition to the above directives, the Court ordered that the State provide an updated Quality Management Plan by July 1, 2012 (this was completed as required); issue a provisional quality management system report by October 1, 2012, that is not subject to review by the Independent Reviewer; and, beginning February 1, 2013, and at least once every six months thereafter until February 1, 2015, create a report summarizing quality assurance activities, findings and recommendations. All Quality Management reports are to be made publicly available on the Department's website.

Finally, as stipulated in the Settlement Agreement, this report was provided in draft form to the Parties for review and comment prior to submission to the Court. A meeting to discuss the draft report was held on August 27, 2012. The thoughtful comments provided by the Parties have been seriously considered in the finalization of this report and modifications to the draft report have been made as thought appropriate.

## **Review of Obligations for Year Two**

### **A. Serving People with Developmental Disabilities in the Community**

#### **1. Enhancement of Community Services**

The State documented that 164 individuals with a developmental disability were transferred from State Hospitals, primarily Central State Hospital, during the past year. (The ICF/MR unit at Central State was

closed in June 2012.) In addition, documentation was provided to confirm that additional Home and Community-Based Waiver Services were provided to 117 individuals with a developmental disability and that 2248 individuals with a developmental disability were provided family supports in order to avoid institutionalization.

The data and documentation provided confirm that the Department has exceeded the numerical targets of the Settlement Agreement. The Department's leadership and staff are to be commended for their efforts and for their diligence in ensuring that the compliance requirements were a continuing focus of their responsibilities.

However, the Settlement Agreement also requires that the community placements be appropriately supported by services that are individualized according to the person's strengths and needs. In order to evaluate the individualization, community integration and appropriate supports of the community placements accomplished under the terms of the Settlement Agreement, a sample of forty-eight individuals was selected from the Department's list; a proportional random sampling method was used to ensure representation across the six Regions of the Department of Behavioral Health and Developmental Disabilities.

The individuals in the random sample were predominately male (63%); between the ages of 51-60 (31%); and ambulatory without support (42%). Wheelchairs were required by 31% of the individuals in the sample. Very few individuals (4%) could speak without assistance. The plurality of individuals reviewed expressed themselves through vocalizations (29%).

Forty of the individuals in the sample were placed into group home settings. Host homes were identified for only three of the individuals and supported apartments were used for three individuals. One individual was placed in a crisis respite home; one individual was hospitalized and his residence was under review.

It is recommended that the Department examine the reasons why host homes are not used more frequently for community placements. As demonstrated by current and past site visits, host home placements generally afforded increased individualization and greater likelihood of social integration.

The majority of residential settings were located near community resources, in typical neighborhoods (94%). There were no more than four individuals in any of the residences reviewed for this report. (All placements reviewed met this requirement of the Settlement Agreement.) There were few problems noted with access to transportation. The majority of the individuals reviewed (63%) had the opportunity to attend religious activities. Despite these advantages, however, the findings regarding social integration had not improved significantly from last year's reviews. Although most individuals (85%) experienced weekly community outings, most (70%) went out with their housemates as a group. Virtually none (10%) belonged to community organizations or clubs. Nearly half (48%) had not met their neighbors.

The Department is strongly encouraged to intensify its training of community providers to ensure that maximum opportunities to interact with non-disabled people are available to individuals under their

responsibility. Training in social role valorization would be a valuable addition to the Department's training curriculum.

In addition to the above referenced issues about integration into the local community, continuing concerns were noted regarding the lack of consent for psychotropic medications. Twenty-four individuals were prescribed these powerful drugs; documentation of informed consent was lacking for 63% of the individuals.

The Department of Behavioral Health and Developmental Disabilities was informed promptly of the most critical issues documented during the individual reviews. The Department responded promptly and initiated its own reviews and the development of corrective action plans, as appropriate. Furthermore, as a result of last year's findings, the Department commendably expanded its contract with the DelMarva Foundation to conduct Person-Centered reviews of all individuals placed under the Settlement Agreement. The Independent Reviewer was provided copies of these reviews; the findings generally concur with her own assessments.

The Department's continued cooperation and oversight of community placement decisions and implementation at the Regional level is critical to removing the documented barriers to integration and habilitation.

#### B. Serving Persons with Mental Illness in the Community

In reviewing the actions taken to comply with this Section of the Settlement Agreement, two expert consultants were retained by the Independent Reviewer to assess and evaluate the implementation of supported employment and supported housing. The State's progress in implementing the requirements of Assertive Community Treatment (ACT) was documented by a third expert consultant. However, the provisions regarding ACT fidelity were not evaluated, pending the Court's approval of an extension of this timeline. The reports from the three experts have been provided to the Parties and are attached to this report. Discussions about supported housing, supported employment and Assertive Community Treatment have continued with the Department of Behavioral Health and Developmental Disabilities. Plans have been initiated for the ongoing review, by the expert consultants, of supported employment and Assertive Community treatment. It has been recommended that the Department work with the Independent Reviewer, over the next six months, to conduct a thorough analysis of the referral mechanisms to the supported housing vouchers. The availability of relevant data needs to be determined before such an analysis can be initiated. This recommendation will complete and strengthen work commenced during this past reporting period.

#### Intensive Services for Individuals with Severe and Persistent Mental Illness

##### 1. Assertive Community Treatment (ACT):

The Settlement Agreement requires that all ACT teams will operate with fidelity to the Dartmouth Assertive Community Treatment model.



During this past fiscal year, repeated discussions were held with Department staff regarding the implementation of ACT services in compliance with the terms of the Settlement Agreement. Due to interventions and corrective action plans implemented by the Department, in order to ensure fidelity to the requisite standards, the Parties requested and the Court approved, with conditions, an extension of the timeline for evaluation of compliance with ACT services. Although evaluation of compliance was not scored, the report of the expert consultant was completed after extensive review of data and discussion with key Departmental staff, providers from four ACT teams, and interested stakeholders. Since the submission of this expert consultant report, the Department has provided comments and has outlined its plans for ensuring adherence to the fidelity standards. The Department and the Independent Reviewer have agreed upon a schedule for ongoing discussion with the expert consultant. In addition, the Department has moved forward with responding to the Court's recent Order. A root cause analysis of any perceived deficiencies in the performance of the ACT teams has been drafted and is being finalized. The Independent Reviewer and her expert consultant have been consulted about the root cause analysis and have been requested to review the corrective action plan. A meeting to discuss both the root cause analysis and the corrective action plan has been scheduled for October 1, 2012. The amici have been invited to participate in this discussion.

## 2. Housing Supports

As of July 1, 2012, the State was to provide a total of 500 supported housing beds for individuals with serious and persistent mental illness who are in the target population. Bridge Funding was to be provided to 360 individuals. As confirmed by the findings of the expert consultant to the Independent Reviewer, the State has more than exceeded these obligations. There were 648 housing vouchers awarded and Bridge Funding was provided to 568 individuals. Site visits in the Atlanta area and in Macon demonstrated that the apartments were in typical apartment complexes and that appropriate case management and ACT services were being provided to the individuals with housing vouchers. There was evidence of flexibility in order to meet individualized needs; one woman was given funding for a two-bedroom apartment so that her child could be reunited with her. The innovative design of the housing voucher program and its oversight/management is to be commended.

The expert consultant continued to caution that there must be attention to infrastructure, capacity building, and collaborative action with housing agency partners and community agencies, if future housing targets are to be achieved.

The attached expert consultant's report was discussed with the Parties on August 27, 2012. In response, in part, the Department stated that it had conducted a thorough review of the supported housing program after the first few months of its operation. One significant change was the establishment of a priority that states: "DBHDD will provide a priority for those that meet the standards under Tenant Eligibility and those that are transitioning from a state supported hospital or Crisis Stabilization Unit, transitioning from a DBHDD supported intensive residential treatment facility (only when that slot will be occupied by an individual transitioning from a state supported hospital or Crisis Stabilization Unit) and meet the clinical criteria for Assertive Community Treatment services." This prioritization is an important issue and requires further analysis. Discussions have begun with the Department staff as to

how data about referrals to supported housing could be collected and analyzed. It is intended that a collaborative effort between the Department and the Independent Reviewer be initiated within the forthcoming year.

### 3. Supported Employment

As required in this phase of the Settlement Agreement, there were to be 170 individuals provided with supported employment opportunities in Year Two. The State provided such services to 181 individuals.

As documented by the expert consultant to the Independent Reviewer, the Department, and its new staff leadership in adult mental health services, has made substantial strides in implementing this service component in compliance with fidelity standards. The findings of the expert consultant are detailed in his attached report.

The consultant again utilized the State Health Authority Yardstick (SHAY) to measure the State's commitment to supported employment, its training and technical assistance efforts, and its quality assurance efforts. This year's score shows a significant improvement. With sustained efforts as those demonstrated this past year, it is expected that the Department can meet, and even surpass, the national average score for states participating in the Substance Abuse and Mental Health Services National Implementing Evidence-based Practices Project.

The report offers several recommendations for consideration, including the development of a plan for this Evidence-Based Practice; input from stakeholders in the planning process was encouraged. Other recommendations include investing in workforce training and consultation and addressing the lack of outcomes related to supported employment on a system-wide basis.

## CONCLUSION

The State, through its Department of Behavioral Health and Developmental Disabilities, has demonstrated good faith and commitment in its implementation of the Year Two obligations under the Settlement Agreement. The State Legislature continued to approve the funding essential to the development of the requisite programs. The Department of Community Health was accessible to and responsive in its engagement with the Independent Reviewer.

As recognized in this Report, a number of very notable achievements have occurred during this second year of the Settlement Agreement. The former and current leadership of the Department of Behavioral Health and Developmental Disabilities was/is cognizant of the successes and mindful of the challenges to be faced in Year Three.

Many of the challenges facing the Department are consistent with those articulated in last year's Report. Individuals with developmental disabilities are entitled to be transferred from state hospitals into integrated community settings where those opportunities are maximized in a meaningful and individualized manner. The implementation of appropriate host home settings will benefit their

integration and acceptance into their neighborhoods and their communities. The failures to provide meaningful and adequate day programming, to fully monitor health care, and to obtain informed consent for psychotropic medications and behavioral support plans again were noted for some of the individuals placed from the State Hospitals into community settings under the terms of this Settlement Agreement. These concerns have been brought to the attention of the Department of Behavioral Health and Developmental Disabilities; corrective actions have been identified and are in the process of being implemented.

Challenges still remain in the development of supported housing and supported employment; these challenges can affect compliance with the Settlement Agreement in the future. It is hoped that the Department will work closely with the Independent Reviewer to analyze whether the referral process to supported housing is working in an equitable manner; whether obstacles to discharge are being removed for individuals who are stable but placed in forensic units at the state hospital; and to determine whether individuals with a developmental disability can access housing vouchers.

In closing this Report, it seems critical to repeat the conclusion from the Report for Year One:

In drafting the language of the Settlement Agreement, the Parties stated their intent that “the principle of self-determination is honored and that the goals of community integration, appropriate planning and services to support individuals at risk of institutionalization are achieved.” This statement of intent is entirely consistent with the goal of the Commissioner of the Department of Behavioral Health and Developmental Disabilities that a continuum of services be reasonably accessible to every Georgian with a disability.

In this second year, the State again has demonstrated that it can and will honor its obligation to comply with the substantive provisions of the Settlement Agreement. The Year ahead must be characterized by further attention to qualitative measures and to the strategies and actions required to sustain these systemic changes.

Respectfully Submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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Elizabeth Jones, Independent Reviewer

September 20, 2012