DOJ Implementation Update

Pursuant to
Code of Virginia §37.2-319 (HB2533/SB1486, 2011)
and Item 315.V.1. of the 2012 *Appropriation Act*

to the Governor and the Chairs of the Senate Finance and House Appropriations Committees

December 1, 2012

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COMMONWEALTH of VIRGINIA

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COMMISSIONER

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December 1, 2012

The Honorable Robert F. McDonnell
Office of the Governor
Patrick Henry Building, Third Floor
Richmond, Virginia 23219

Dear Governor McDonnell:

Pursuant to Code of Virginia §37.2-319 (HB2533/SB1486, 2011) and Item 315.V.1. of the 2012 *Appropriation Act*, enclosed is the second semi-annual report on Virginia's progress in meeting the milestones in the Settlement Agreement for the period of July 1, 2012 – October 31, 2012. This report also describes expenditures associated with the Agreement for FY12 and the first quarter of FY13. The next report is due on July 1, 2013.

If you have any questions, please feel free to contact me at (804) 786-3921 or via email at jim.stewart@dbhds.virginia.gov.

Sincerely,

James W. Stewart, III

Enc.
Cc: Hon. William A. Hazel Jr., M.D.
Keith Hare, Deputy Secretary, HHR
Matt Cobb, Deputy Secretary, HHR
Kristin Burhop, Trust Fund Coordinator
Olivia J. Garland, Ph.D., Deputy Commissioner, DBHDS
Heidi R. Dix, Assistant Commissioner – Developmental Services, DBHDS
Cynthia B. Jones, Director, DMAS
Allyson K. Tysinger, Senior Assistant Attorney General, OAG

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JAMES W. STEWART, III
COMMISSIONER

December 1, 2012

The Honorable Walter A. Stosch, Chair
Senate Finance Committee
10th Floor, General Assembly Building
910 Capitol Street
Richmond, VA 23219

Dear Senator Stosch:

Pursuant to Code of Virginia §37.2-319 (HB2533/SB1486, 2011) and Item 315.V.1. of the 2012 *Appropriation Act*, enclosed is the second semi-annual report on Virginia's progress in meeting the milestones in the Settlement Agreement for the period of July 1, 2012 – October 31, 2012. This report also describes expenditures associated with the Agreement for FY12 and the first quarter of FY13. The next report is due on July 1, 2013.

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Sincerely,

James W. Stewart, III

Enc.
Cc: Hon. William A. Hazel Jr., M.D.
Hon. Emmett W. Hanger, Jr.
Joe Flores, Legislative Analyst, Senate Finance Committee
Keith Hare, Deputy Secretary, HHR
Matt Cobb, Deputy Secretary, HHR
Kristin Burhop, Trust Fund Coordinator
Olivia J. Garland, Ph.D., Deputy Commissioner, DBHDS
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December 1, 2012

The Honorable Lacey E. Putney, Chair
House Appropriations Committee
General Assembly Building
P.O. Box 406
Richmond, VA 23218

Dear Delegate Putney:

Pursuant to Code of Virginia §37.2-319 (HB2533/SB1486, 2011) and Item 315.V.1. of the 2012 *Appropriation Act*, enclosed is the second semi-annual report on Virginia's progress in meeting the milestones in the Settlement Agreement for the period of July 1, 2012 – October 31, 2012. This report also describes expenditures associated with the Agreement for FY12 and the first quarter of FY13. The next report is due on July 1, 2013.

If you have any questions, please feel free to contact me at (804) 786-3921 or via email at jim.stewart@dbhds.virginia.gov.

Sincerely,

James W. Stewart, III

Enc.
Cc: Hon. William A. Hazel Jr., M.D.
Hon Riley E. Ingram
Susan E. Massart, Legislative Fiscal Analyst, House Appropriations Committee
Keith Hare, Deputy Secretary, HHR
Matt Cobb, Deputy Secretary, HHR
Kristin Burhop, Trust Fund Coordinator
Olivia J. Garland, Ph.D., Deputy Commissioner, DBHDS
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DOJ Implementation Update for General Assembly
December 1, 2012

Executive Summary

This report was developed to meet the requirements set forth in both *Virginia Code* § 37.2-319 (HB2533/SB1486, 2011) and Item 315.V.1. of the 2012 *Appropriation Act*. Specifically, Item 315.V.1 addresses the management of the general fund appropriation for the expansion of community-based services in anticipation of the Settlement Agreement with the U.S. Department of Justice (DOJ), and states:

> *The Department of Behavioral Health and Developmental Services shall provide updates on July 1 and December 1 of each year to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees regarding expenditures and progress in meeting implementation targets established in the agreement.*

The enactment clause associated with § 37.2-319 addresses the plan to transition individuals with intellectual disability from state training centers to community-based settings, and states:

> *The Secretary shall submit reports on the development and implementation of the plan to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance on the first of July and December of each year beginning July 1, 2011.*

This report addresses Virginia's progress in meeting the milestones in the Settlement Agreement for the period of July 1, 2012 – October 31, 2012, and describes expenditures associated with the Agreement for FY12 and FY13.

Current Legal Status of the Settlement Agreement

In August 2008, DOJ initiated an investigation of Central Virginia Training Center (CVTC), a facility operated by the Department of Behavioral Health and Developmental Services (DBHDS), pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA). In April 2010, DOJ notified the Commonwealth that it was expanding its investigation to focus on Virginia's compliance with the Americans with Disabilities Act (ADA) and *Olmstead v. L.C. (US Supreme Court 1999)*. It first began this phase of the investigation at CVTC and then expanded it to the statewide system serving individuals with intellectual and developmental disabilities (ID and DD, respectively).

In February 2011, DOJ submitted a findings letter to Virginia, concluding that the Commonwealth fails to provide services to individuals with ID and DD in the most integrated setting appropriate to their needs. DOJ found that Virginia lacks the community capacity to support individuals who would choose to live there and prevent unnecessary institutionalization. It also found that Virginia's current discharge process from training centers was flawed, inconsistent, and not timely.

In March 2011, Virginia entered into negotiations with DOJ. On January 26, 2012, Virginia and DOJ reached a 10 year Settlement Agreement resolving DOJ's findings. On joint motion of the DOJ and the

Commonwealth, the Settlement Agreement was filed with the U.S. District Court for the Eastern District of Virginia for entry as a court order. Several family members of current training center residents were granted permission by the court to intervene in the case.

On March 6, 2012, Judge John A. Gibney, Jr., signed a temporary order entering the Settlement Agreement. Throughout this document that date is used as the start date for purposes of implementation.

On June 8, 2012, Judge Gibney conducted a hearing to determine whether to approve the Agreement. On August 23, 2012, Judge Gibney signed a final order entering the Settlement Agreement (Appendix A).

Implementation Status Update

The 2011 General Assembly provided funds to begin implementation through the Behavioral Health and Developmental Services Trust Fund (the "Trust Fund," §§ 37.2-316 through 319). The 2012 General Assembly continued these efforts by appropriating additional funds for implementation through Item 315 V.1. DBHDS is moving forward with implementation based on these directives and those in the final Settlement Agreement.

Major Accomplishments:

- **A TOTAL OF 117 INDIVIDUALS MOVED FROM TRAINING CENTERS TO THE COMMUNITY BETWEEN NOVEMBER 2011 AND OCTOBER 31, 2012:**
    - In November 2011, 60 waiver slots were established out of the Behavioral Health and Developmental Services Trust Fund to move 40 individuals from Southside Virginia Training Center (SVTC) and 20 individuals from Central Virginia Training Center (CVTC) to the community. For the period November 2011 – June 30, 2012, 61 individuals moved from these two training centers to the community using enhanced discharge processes.
    - During that same time period, 15 individuals moved from Virginia's other three training centers to the community.
    - All training centers have been actively engaging individuals and families in enhanced discharge processes since March 2012 when the Settlement Agreement was temporarily entered by Judge Gibney. As a result, during the period of July 1, 2012 – October 31, 2012, 41 individuals moved from Virginia's training centers to the community.
    - The following table shows where individuals have moved by type of setting and geographic location since November 2011.

Name of TC	Moves 11.1.11 through 10.31.12	Group Home	Sponsored Residential	Community-based Intermediate Care Facility	Nursing Facility	Family Home	Returned to Home CSB	Did NOT return to home CSB but returned to home region	Moved outside of home region
CVTC	31	17	9	4	0	1	11	6	14
NVTC	4	4	0	0	0	0	4	0	0
SEVTC	16	9	3	4	0	0	5	10	1
SVTC	58	56	0	0	2		17	32	9
SWVTC	8	2	6	0	0	0	4	4	0
Total	**117**	**88**	**18**	**8**	**2**	**1**	**41**	**52**	**24**

- The following reflects the current and historical census in all five training centers:

Name	Decade Prior to Settlement Agreement			July 1, 2012 Census	October 30, 2012 Census
	2000 Census	2005 Census	2010 Census		
CVTC	679	564	426	350	324
NVTC	189	182	170	153	149
SEVTC	194	192	143	106	98
SVTC	465	371	267	201	177
SWVTC	218	214	192	173	170
Total	**1,745**	**1,523**	**1,198**	**983**	**918**

- **ESTABLISHING CRISIS SERVICES:** DBHDS is implementing the Systemic Therapeutic Assessment Respite and Treatment (START) program to provide crisis services to individuals with ID/DD statewide. Program operations in all five regions of the Commonwealth began in July 2012. Three of five regions are already providing 24 hour mobile crisis support (Regions 3, 4, and 5). Regions 1 and 2 are using a private provider who received a license in October 2012 and will begin 24 hour operations imminently.

  The program will provide 24 hour/7 day a week support to individuals in crisis, including an on-site assessment with an individual within one hour in urban regions and two hours in rural areas by June 30, 2014. The program will provide in-home supports and out-of-home crisis respite services when they are needed. The goal of the program is to maintain individuals in their homes and prevent crises when possible. At the time of this report, over 282 individuals had been referred to these programs for assessment and support.

- **DEVELOPMENT OF CASE MANAGEMENT STANDARDS:** The Settlement Agreement requires enhanced case management for individuals receiving Home and Community Based (HCBS) waiver services in the target population who meet certain criteria (Section V.F.3.a-f). DBHDS will issue guidance to community services board (CSB) case managers and DD case managers in early December regarding these criteria and their implementation. The enhanced case management standards will take effect on March 6, 2013.

- **ISSUING CASE MANAGEMENT CORE COMPETENCY-BASED TRAINING CURRICULUM:** Six core competency based training modules have been completed and released for case managers

across Virginia to complete on-line. Over 3,400 individuals have completed all six modules since they were established in May 2012. The Settlement Agreement requires Virginia to develop a core-competency based curriculum for case managers by March 6, 2013.

- **DBHDS STRATEGIC PLAN FOR EMPLOYMENT FIRST:** The Settlement Agreement required DBHDS to develop an implementation plan to improve integrated day opportunities, including supported employment, for individuals in the target population of the Agreement. DBHDS published the plan on November 8, 2012. The Strategic Plan provides baseline data regarding individuals receiving supported employment under HCBS waivers and outlines annual strategic goals to improve employment and other integrated day opportunities for individuals in the target population as well as those with other disabilities (Appendix B).

  The body of the report describes in detail these and other activities that DBHDS and its partner agencies are undertaking to implement the Settlement Agreement.

Barriers to Implementation:

At the time of this report, Virginia has encountered few barriers to implementing the milestones in the Settlement Agreement. The following items are either delayed in implementation or will require additional attention to address:

- **CRISIS SERVICES FOR CHILDREN WITH ID/DD IN THE TARGET POPULATION:** Virginia is required to implement a "statewide crisis system for individuals with intellectual and developmental disabilities." This system should include children. DBHDS is currently implementing the START program for adults with ID/DD. Expanding the program to include children will likely create new challenges and barriers for DBHDS to overcome.

- **CRISIS STABILIZATION PROGRAMS:** The crisis stabilization programs as designed in the Settlement Agreement were to be established on or before June 30, 2012. The crisis stabilization programs, which are dependent on the construction or renovation of homes in each of the five regions, have been delayed. The first program began operation in November 2012 in Region 3. The programs in Regions 1, 2, and 4 will begin operation during the winter of 2012. Region 5's program will not begin until summer 2013.

- **EMPLOYMENT FIRST IMPLEMENTATION PLAN TARGETS:** DBHDS is required to use baseline data to establish targets for improving integrated day opportunities, including supported employment, for the target population under the Settlement Agreement. DBHDS encountered difficulty and delays in collecting data in order to establish a baseline and develop targets. DBHDS will work with stakeholders to establish these targets by March 31, 2013.

DOJ Implementation Update for General Assembly
December 1, 2012

Introduction

This report was developed to meet the requirements set forth in both *Virginia Code* § 37.2-319 (HB2533/SB1486, 2011) and Item 315.V.1. of the 2012 *Appropriation Act*. Specifically, Item 315.V.1 addresses the management of the general fund appropriation for the expansion of community-based services in anticipation of the Settlement Agreement with the U.S. Department of Justice (DOJ), and states:

> *The Department of Behavioral Health and Developmental Services shall provide updates on July 1 and December 1 of each year to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees regarding expenditures and progress in meeting implementation targets established in the agreement.*

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This report addresses Virginia's progress in meeting the milestones in the Settlement Agreement for the period of July 1, 2012 – October 31, 2012, and describes expenditures associated with the Agreement for FY12 and FY13.

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In February 2011, DOJ submitted a findings letter to Virginia, concluding that the Commonwealth fails to provide services to individuals with ID and DD in the most integrated setting appropriate to their needs. DOJ found that Virginia lacks the community capacity to support individuals who would choose to live there and prevent unnecessary institutionalization. It also found that Virginia's current discharge process from training centers was flawed, inconsistent, and not timely.

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On March 6, 2012, Judge John A. Gibney, Jr., signed a temporary order entering the Settlement Agreement. Throughout this document that date is used as the start date for purposes of implementation.

On June 8, 2012, Judge Gibney conducted a hearing to determine whether to approve the Agreement. On August 23, 2012, Judge Gibney signed a final order entering the Settlement Agreement (Appendix A).

Overview of the Settlement Agreement

This section provides a brief overview of the many elements of the Settlement Agreement. Items with parentheses indicate specific elements that tie to the expenditure table in Item 315.V.1. of the 2012 *Appropriation Act*. The full Settlement Agreement is attached in Appendix A or it can be accessed online at www.dbhds.virginia.gov.

Serving Individuals in the Most Integrated Settings:
The Agreement is based on the following purpose, which was mutually agreed to by DOJ and Virginia:

> *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 in this [Agreement].*

The language regarding integrated settings and informed choice is used throughout the Agreement as a principle for implementation. DBHDS and partner agencies implementing the Agreement for the Commonwealth must develop policies, guidelines, and regulations that reinforce these principles.

Target Population:
The target population of the Agreement includes individuals with ID/DD who meet any of the following additional criteria:

1. Are currently residing at any of the training centers;
2. Who meet the criteria for the ID waiver or Individual and Family Developmental Disabilities Support Waiver (IFDDS) wait lists; or
3. Currently reside in a nursing home or intermediate care facility (ICF).

Medicaid Waiver Slots (Facility Transition and Community Waiver Slots):
The Commonwealth will provide 4,170 waiver slots for the target population under the Agreement. The waiver slots are available to several distinct populations as itemized in the Agreement. Table 1 below shows the slots for each population for years FY12, FY13, and FY14.

- **TRAINING CENTER RESIDENT SLOTS:** A minimum of 805 waiver slots are provided from FY12 to FY2020 to transition individuals from training centers to community placements.
- **COMMUNITY ID WAIVER SLOTS:** A minimum of 2,915 waiver slots are provided from FY12 to FY2021 for individuals who are on the urgent ID waiver wait list. Twenty-five slots each in FY13 and FY14 are prioritized for youth with ID ages 22 and under who reside in nursing facilities or large ICFs.
- **INDIVIDUAL AND FAMILY DEVELOPMENTAL DISABILITES SUPPORT (DD) WAIVER SLOTS:** A minimum of 450 waiver slots are provided from FY12 to FY2021 for individuals on the DD waiver wait list.

Fifteen slots each in FY13 and FY14 are prioritized for youth with DD ages 22 and under who reside in nursing facilities or large ICFs.

Table 1: Waiver Slots Available under Agreement, FY12-14

Fiscal Year	Training Center Resident Slots	Community ID Waiver Slots	IFDDS Waiver Slots
2012	60	275	150
2013	160	225	25
2014	160	225	25
Total (FY12-14)	**380**	**725**	**200**

Family Supports (Program of Individual and Family Supports):
The Agreement requires implementation of an individual and family support program for individuals with ID/DD that the Commonwealth determines are most at risk of institutionalization. In FY13, a minimum of 700 individuals will be supported. In FY14 through FY21 a minimum of 1,000 individuals will be supported each year.

Family supports provide a minimal level of support to individuals who do not have alternative services through a waiver; typically these are individuals on the waiver wait lists. Family supports can include respite services, environmental modifications, dental services, professional consultative services, or other supports that enable individuals to remain in their own home or their family's home.

Crisis Services (Crisis Stabilization):
The Agreement requires implementation of a statewide crisis system for individuals with ID/DD. The system must provide 24/7 support to individuals experiencing crisis and their families through in-home supports and community-based crisis services. It must also provide crisis prevention and proactive planning to avoid potential crises.

The Commonwealth must establish mobile crisis teams to be available 24/7 and respond to an on-site crisis within three hours in FY12, within two hours by the end of FY13, and within one hour (urban)/two hours (rural) in FY14. It must also establish crisis stabilization programs as short-term alternatives to hospitalization for individuals in crisis. These programs were required to be developed by June 30, 2012, and additional programs are required to ensure adequate supports are available by the end of FY13 and beyond.

Employment:
The Commonwealth is required to provide individuals in the target population who are receiving services under the Agreement with integrated day opportunities, including supported employment. Under the Agreement, Virginia must establish a state Employment First policy. Such a policy requires case managers and training center personal support teams to discuss employment in integrated work settings as the first and priority service option with individuals. If individuals choose this option, the Commonwealth must seek options to provide these supports to the individual.

The Commonwealth must also develop a plan to increase integrated day opportunities, including supported employment within 180 days of the Agreement. The plan must use Employment First principles and establish baseline information regarding those individuals receiving supported employment, the length of time they are employed, and the amount they earn. The plan must then establish targets to increase the number of individuals in supported employment each year and increase

the number of individuals who remain employed in integrated work settings for at least 12 months. This plan must be developed in concert with members of the Virginia chapter of the State Employment Leadership Network (SELN).

Community Living Options (Rental Assistance):
The Commonwealth must develop a plan within 365 days of the Agreement to increase access to independent living options such as individuals' own homes or apartments. The plan must be developed under the direct supervision of a dedicated Housing Coordinator at DBHDS in concert with representatives from the Department of Medical Assistance Services (DMAS), the Virginia Board for People with Disabilities (VBPD), the Virginia Housing Development Authority (VHDA), the Department of Housing and Community Development (DHCD), and others. The plan must establish baseline information regarding the number of individuals who would choose independent living options and make recommendations to provide access to these settings. A one-time fund of $800,000 has been established to provide and administer rental assistance in accordance with recommendations in this plan.

Discharge Planning and Transition from Training Center:
The Agreement requires changes to Virginia's discharge processes at each of its training centers. Every individual residing at a training center has a person-centered discharge plan based on the individual's strengths, preferences, and clinical needs. The plans document barriers to discharge and are done by the individual's Personal Support Team. The Personal Support Team is a group of clinical professionals at the training center who knows the individual best, the individual, the authorized representative, and the CSB case manager. All discharge plans are developed with the informed choice of the individual, and individuals and authorized representatives are offered a choice of community providers, if available, prior to discharge. Once an individual is discharged, post-move monitoring must occur to ensure his health and safety during the critical time after discharge.

The Agreement also calls for the establishment of Community Integration Managers at each training center to oversee discharge processes and requires the creation of Regional Support Teams to review specific situations where barriers to discharge are identified.

Quality and Risk Management:
The Settlement Agreement requires several enhancements to Virginia's system of quality oversight and improvement:

- **RISK MANAGEMENT:** Virginia shall require that all training centers, CSBs, and other community providers of residential and day services implement risk management processes. Virginia must implement a real-time, web-based incident reporting system and reporting protocol to monitor and investigate serious incidents and deaths and establish a mortality review committee. Training must be offered to providers on how to reduce risks.
- **DATA:** Virginia must collect and analyze reliable data from many different sources to identify trends, patterns, and problems at the state, regional, and provider level and develop preventive or corrective actions. This data must be used to enhance training and outreach to providers. Data must be collected on safety, freedom from harm, physical, mental, and behavioral health, avoiding crises, stability, choice, self-determination, community inclusion, access to services, and provider capacity. DBHDS must also establish Regional Quality Councils to examine data at the regional level.

- **PROVIDERS:** All providers will be required to develop and implement a quality improvement program and report key indicators from these programs to DBHDS. DBHDS must assess the adequacy of providers' quality improvement strategies.
- **CASE MANAGEMENT:** Case managers are required to meet with an individual on a regular basis and face-to-face every 30 days if they meet certain high-risk categories. At least one of these visits every other month must occur in the individual's place of residence. High-risk categories include those who:
    - Receive services from providers having conditional or provisional licenses;
    - Have more intensive behavioral or medical needs;
    - Have an interruption in service of greater than 30 days;
    - Encounter the crisis system for a serious crisis or for multiple less serious crises in a three-month period;
    - Have transitioned from a training center within the previous 12 months; or
    - Reside in congregate settings with 5 or more individuals.

  Virginia must also establish a case management training program within one year of the Agreement.
- **LICENSING:** DBHDS will continue to conduct regular, unannounced licensing inspections of community providers. DBHDS will conduct more frequent licensure inspections for those individuals who are high-risk (as described above) within 12 months of the Agreement. DBHDS will ensure licensure processes assess the adequacy of the individualized supports and services provided to persons receiving services under the Agreement.
- **TRAINING:** Virginia must establish a statewide core-competency-based training program for all staff who provide services under the Agreement.
- **QUALITY SERVICE REVIEWS:** Virginia must use Quality Service Reviews (QSRs), which are face-to-face interviews with individuals in the target population, to evaluate the quality of services at the individual, provider, and statewide level.

Independent Reviewer:
The Independent Reviewer is required to provide reports to the Court on Virginia's compliance with the Settlement Agreement twice per year. These reports will be publicly available.

Implementation Status Update

Table 2 below shows the milestones in the Agreement between March 6, 2012 and June 30, 2012, the date by which compliance must be shown, and a brief description of Virginia's progress in implementation compared to the last update report on July 23, 2012. Table 3 shows the milestones in the Agreement between July 1, 2012 – June 30, 2013, the date by which compliance must be shown, and a brief description of Virginia's progress in implementation.

Major Accomplishments:

- **A TOTAL OF 117 INDIVIDUALS TRANSITIONED FROM TRAINING CENTERS TO THE COMMUNITY BETWEEN NOVEMBER 2011 AND OCTOBER 31, 2012:**
    - In November 2011, 60 waiver slots were established out of the Behavioral Health and Developmental Services Trust Fund to move 40 individuals from Southside Virginia Training Center (SVTC) and 20 individuals from Central Virginia Training Center (CVTC) to the community. For the period November 2011 – June 30, 2012, 61 individuals moved

from these two training centers to the community using enhanced discharge processes.

- During that same time period, 15 individuals moved from Virginia's other three training centers to the community.
- During the period of July 1, 2012 – October 31, 2012, 41 individuals moved from Virginia's training centers to the community.
- The following table shows where individuals have moved by type of setting and geographic location since November 2011.

Name of TC	Moves 11.1.11 through 10.31.12	Group Home	Sponsored Residential	Community-based Intermediate Care Facility	Nursing Facility	Family Home	Returned to Home CSB	Did NOT return to home CSB but returned to home region	Moved outside of home region
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NVTC	4	4	0	0	0	0	4	0	0
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Total	**117**	**88**	**18**	**8**	**2**	**1**	**41**	**52**	**24**

- The following reflects the current and historical census in all five training centers:

Name of TC	Decade Prior to Settlement Agreement			July 1, 2012 Census	Oct 31, 2012 Census
	2000 Census	2005 Census	2010 Census		
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Total	**1,745**	**1,523**	**1,198**	**983**	**918**

- **ESTABLISHING CRISIS SERVICES:** DBHDS is implementing the Systemic Therapeutic Assessment Respite and Treatment (START) program to provide crisis services to individuals with ID/DD statewide. Program operations in all five regions of the Commonwealth began in July 2012. Three of five regions are already providing 24 hour mobile crisis support (Regions 3, 4, and 5). Regions 1 and 2 are using a private provider who received its license in October 2012 and will begin 24 hour operations imminently.

  The program will provide 24 hour/7 day a week support to individuals in crisis, including an on-site assessment with an individual within one hour in urban regions and two hours in rural areas by June 30, 2014. The program will provide in-home supports and out-of-home crisis respite services when they are needed. The goal of the program is to maintain individuals in their homes and prevent crises when possible. At the time of this report, over 282 individuals had been referred to these programs for assessment and support.

- **DEVELOPMENT OF CASE MANAGEMENT STANDARDS:** The Settlement Agreement requires enhanced case management for individuals receiving HCBS waiver services in the target population who meet certain criteria (Section V.F.3.a-f). DBHDS will issue guidance to CSB case managers and DD case managers in early December regarding these criteria and their implementation. The new enhanced case management standards will take effect on March 6, 2013.

- **ISSUING CASE MANAGEMENT CORE-COMPETENCY BASED TRAINING CURRICULUM:** Six core competency based training modules have been completed and released for case managers across Virginia to complete on-line. The Settlement Agreement requires Virginia to develop a core-competency based curriculum for case managers by March 6, 2013. The six modules are described below.

  1. **Overview** – This module provides the context for providing case management including a definition of case management, person-centered and strengths based practice, the flow of service delivery, cultural competency, behaving professionally and ethically, and professional development.

  2. **Disabilities Defined and the Importance of Integrated Care** – This module reviews the basic definitions of the major disability areas (behavioral health, developmental disabilities, and physical health), the main diagnoses within each area, and the importance of the integration of care.

  3. **Building and Maintaining Relationships** – This module reviews the basics of engagement, effective communication and listening, collaboration, boundaries, and self-care.

  4. **Assessment** – This module reviews the process of identifying personal values, goals, and priorities; problems, deficits, and stressors; and strengths and resources. It will also review assessing harm to self and others.

  5. **Planning** – This module reviews the planning process, supporting the individual and his supporters in decision-making regarding services, and documentation.

  6. **Services** – This module reviews the provision of case management services including implementing, coordinating, and monitoring the plan; linking to resources; community-based service delivery; involving family members and supporters; problem solving, advocating, and accountability; supporting housing stability, employment, financial health, and medication management; and discharge.

  As of October 31, 2012, a total of 3,405 CSB staff, DD case managers, and private providers had completed all six modules. Work began on a new module on Accountability on October 15th with a target completion date of March 2013.

- **EMPLOYMENT FIRST IMPLEMENTATION PLAN:** On November 8, 2012, DBHDS issued its Strategic Plan for Employment First (Appendix B). The Settlement Agreement requires DBHDS to develop an implementation plan to improve integrated day opportunities, including supported employment, for individuals in the target population of the Agreement. The Strategic Plan provides baseline data

regarding individuals receiving supported employment under HCBS waivers and outlines annual strategic goals to improve employment and other integrated day opportunities for individuals in the target population as well as those with other disabilities.

Barriers to Implementation:

At the time of this report, Virginia has encountered few barriers to implementing the milestones in the Settlement Agreement. The following items are either delayed in implementation or will require additional attention to address:

- **CRISIS SERVICES FOR CHILDREN WITH ID/DD IN THE TARGET POPULATION:** Virginia is required to implement a "statewide crisis system for individuals with intellectual and developmental disabilities." This system should include children. DBHDS is currently implementing the START program for adults with ID/DD. Expanding the program to include children will likely create new challenges and barriers for DBHDS to overcome.
- **CRISIS STABILIZATION PROGRAMS:** The crisis stabilization programs as designed in the Settlement Agreement were to be established on or before June 30, 2012. The crisis stabilization programs, which are dependent on the construction or renovation of homes in each of the five regions, have been delayed. The first program began operation in November 2012 in Region 3. The programs in Regions 1, 2, and 4 will begin operation during the winter of 2012. Region 5's program will not begin until summer 2013.
- **EMPLOYMENT FIRST IMPLEMENTATION PLAN TARGETS:** DBHDS is required to use baseline data to establish targets for improving integrated day opportunities, including supported employment, for the target population under the Settlement Agreement. DBHDS encountered difficulty and delays in collecting data in order to establish a baseline and develop targets. DBHDS will work with stakeholders to establish these targets by March 31, 2013.

Table 2: March 6, 2012 – June 30, 2012 Milestones in DOJ Settlement Agreement

DOJ Milestone	Compliance Date	Summary of Activity (Mar 6, 2012 – June 30, 2012)	Summary of Activity (July 1, 2012 – Oct 31, 2012)
C.1.a. The Commonwealth shall create a minimum of 805 slots to enable individuals in the target population in the Training Centers to transition to the community according to the following schedule: i. In State FY 2012, 60 waiver slots	By June 30, 2012	In November 2012, 60 waiver slots were established out of the DBHDS Trust Fund to move 40 individuals from SVTC and 20 individuals from NVTC to the community. Funding was also approved for one-time start-up funds and CSB case management for these 60 individuals. As of June 30, 2012, 61 individuals have moved from these two training centers to the community. 22 of the 60 waiver slots were used for these moves. 34 individuals moved using Money Follows the Person (MFP) waiver slots and the remaining individuals moved to a community-based ICF or had an existing slot. DBHDS will work with DPB, DMAS, and the Office of the Secretary of Health and Human Resources (OSHHR) to determine how the unexpended balances associated with the unused slots will be used to move forward with implementation of the Settlement Agreement.	Slots distributed
C.1.b. The Commonwealth shall create a minimum of 2,915 waiver slots to prevent the institutionalization of individuals with intellectual disabilities in the target population who are on the urgent wait list for a waiver… i. In State FY 2012, 275 waiver slots	By June 30, 2012	DBHDS uses a CMS-approved slot allocation methodology to distribute community ID waiver slots to CSBs. The CSBs then distribute these slots to individuals on their urgent needs wait list. In June 2011, DBHDS notified CSBs of their slot allocation and the slots were distributed.	Slots distributed

DOJ Milestone	Compliance Date	Summary of Activity (Mar 6, 2012 – June 30, 2012)	Summary of Activity (July 1, 2012 – Oct 31, 2012)
C.1.c. The Commonwealth shall create a minimum of 450 waiver slots to prevent the institutionalization of individuals with developmental disabilities other than ID in the target population who are on the waitlist for a waiver… i. In State FY 2012, 150 waiver slots	By June 30, 2012	DMAS uses a CMS-approved slot allocation methodology to distribute DD waiver slots to individuals on the DD waiver wait list. In July 2011, DMAS notified individuals on the DD waiver wait list that they had received a slot.	Slots distributed
C.6.b.i.B. By June 30, 2012, the Commonwealth shall train CSB Emergency Services personnel in each Health Planning Region ("Region") on the new crisis response system it is establishing, how to make referrals, and the resources that are available.	By June 30, 2012	DBHDS is actively working on implementation of the Systemic Therapeutic Assessment Respite and Treatment (START) program to provide crisis services to individuals with ID/DD in Virginia. At the state level, training and information has been provided to the VACSB Emergency Services Council in January 2012 and May 2012. At the regional level, each region has been with CSB emergency services staff to introduce them to the START program and establish memorandum of understanding with each emergency services team in that region to coordinate referrals to the START program.	Region I 10% trained Region II 15% trained. Region III 50% trained. Region IV 10-20% trained Region V 30-50% trained.

DOJ Milestone	Compliance Date	Summary of Activity (Mar 6, 2012 – June 30, 2012)	Summary of Activity (July 1, 2012 – Oct 31, 2012)
C.6.b.ii.F. By June 30, 2012, the Commonwealth shall have at least one mobile crisis team in each Region that shall respond to on-site crises within three hours.	By June 30, 2012	All five regional START programs are recruiting and hiring staff. Two regions will operate using a private provider, UCP/Easter Seals, and three regions will operate CSB programs. Regional START teams are providing some consultation to individuals and professionals in each region. Operations of mobile crisis teams will begin according to the schedule below with modified hours of operation. All programs will be fully operational with 24/7 support by January 2013. Region I (Central Virginia): October 2012 Region II (Northern Virginia): October 2012 Region III (Southwest Virginia): August 2012 Region IV (Greater Richmond/Petersburg Area): September 2012 Region V (Hampton Roads): October 2012	All Mobile Crisis Teams are in place and responding to crisis in Regions 3, 4, and 5. Regions 1 and 2 will be operating in December 2012. A reporting system is being implemented to track response time and other operational variables. The system is still being implemented at the regional level and data is not yet available. DBHDS will monitor data to measure response time. Data regarding response time will be available for the July 1, 2013 update.

DOJ Milestone	Compliance Date	Summary of Activity (Mar 6, 2012 – June 30, 2012)	Summary of Activity (July 1, 2012 – Oct 31, 2012)
C.6.b.iii.E. By June 30, 2012, the Commonwealth shall develop one crisis stabilization program in each Region.	By June 30, 2012	START crisis respite homes are under renovation or construction in each of the five regions. They will begin operations according to the schedule below, with full operations by January 2013. Region I (Central Virginia): October 1 Region II (Northern Virginia): October 1 Region III (Southwest Virginia): January 1 Region IV (Greater Richmond/Petersburg Area): November 1 Region V (Hampton Roads): January 1 Regions have partnership agreements with each other so that those homes coming online earlier can admit individuals from other regions, when beds are available. This will ensure individuals receive some crisis respite supports while the homes are completed.	START crisis respite homes are under renovation or construction in all five regions. The Regions will begin operations according to the schedule below. Region I (Central Virginia): December 1, 2012 Region II (Northern Virginia): December 1 2012 Region III (Southwest Virginia): November 1, 2012 Region IV (Greater Richmond/Petersburg Area): March 1, 2013 Region V (Hampton Roads): June 30 2013 In Region V, the rehabilitation costs for the original house that was purchased for crisis stabilization were deemed prohibitive, and instead, following START specifications, they have designed and will build a new house. Regions have partnership agreements with each other, so that programs coming online earlier can admit individuals from other regions, when beds are available. Additionally, all regions will be providing In-home Crisis Services by December 31, 2012. This will ensure that individuals receive some crisis respite supports while the homes are being completed.

DOJ Milestone	Compliance Date	Summary of Activity (Mar 6, 2012 – June 30, 2012)	Summary of Activity (July 1, 2012 – Oct 31, 2012)
IV. By July 2012, the Commonwealth will have implemented Discharge and Transition Planning processes at all Training Centers consistent with the terms of this Section, excluding other dates agreed upon, and listed separately in this section.	By June 30, 2012	Discharge process standardization began prior to completion of the Settlement Agreement. – All individuals residing at the training center have a discharge plan – All training center staff involved with discharges have been trained – All five Community Integration Managers have been hired (December 2011) – Internal DBHDS guidelines finalized and issued to training centers – Regional meetings with CSBs to learn about process began in May 2012 and will conclude in July 2012 – Information regarding barriers to discharge are collected and aggregated for training center, regional, and statewide analysis – Post-move monitoring process in place – All discharge plans updated within 30 days of discharge – Monthly reports to Central Office regarding individuals moved and types of placements Other items that are under development include: – Develop training center education and training plan for Person-Centered Thinking (PCT), and terms of the Agreement, discharge process, and community options – Establishment of Regional Support Teams	Regional Provider Forums regarding the discharge process were offered in each Region the weeks of September 24 and October 1. All new training center employees trained in Person-Centered Thinking (PCT) Virginia. All training center employees receive annual training each January. DBHDS Director of Community Integration and Discharges provided training to all key training center department heads regarding the Settlement Agreement during the reporting period. Regional Support Teams will be established in January 2013 to assist with training center discharges, transitions from nursing facilities and community ICFs, and those coming off the waiver wait lists.

DOJ Milestone	Compliance Date	Summary of Activity (Mar 6, 2012 – June 30, 2012)	Summary of Activity (July 1, 2012 – Oct 31, 2012)
IV.B.8. For individuals admitted to a Training Center after the date this Agreement is signed by both parties, the Commonwealth shall ensure that a discharge plan is developed as described herein within 30 days of admission. For all individuals residing in a Training Center on the date that this Agreement is signed by both parties, the Commonwealth shall ensure that a discharge plan is developed as described herein within six months of the effective date of this Agreement.	By June 30, 2012	All individuals residing at training centers have a discharge plan.	All individuals residing in training centers have a discharge plan.

DOJ Milestone	Compliance Date	Summary of Activity (Mar 6, 2012 – June 30, 2012)	Summary of Activity (July 1, 2012 – Oct 31, 2012)
V.D.3. The Commonwealth shall begin collecting and analyzing reliable data about individuals receiving services under this Agreement selected from the following areas in State Fiscal year 2012 and will ensure reliable data is collected and analyzed from each these areas by June 30, 2014… a. Safety and freedom from harm b. Physical, mental, and behavioral health and well being c. Avoiding crises d. Stability e. Choice and self-determination f. Community inclusion g. Access to services h. Provider capacity	Some data collected by June 30, 2012	This section of the Agreement requires Virginia to begin collection of some data in FY12 and to expand to include measures in each of the domains (a-h) by June 30, 2014. DBHDS collects data through its Office of Human Rights and the Office of Licensing regarding deaths, serious incidents, and allegations of abuse and neglect. This data addresses domain (a) and satisfies the requirement to collect data in selected areas for FY12. DBHDS will be working with providers and CSBs to identify additional measures that will be collected by June 30, 2014 in each of the domains. DBHDS will also work with providers and CSBs to determine the most efficient methodology to collect this data and how it will provide regular reports on the measures to providers, CSBs, and the public.	A tracking process has been established for serious incidents and deaths specifying the status of the internal review process and the number of incidents in each category. A number of Project Teams have been established to address new licensure, human rights, risk management, and data analysis requirements in this area. Project Team activities will include working with providers and CSBs to identify additional measures that will be collected in each of the domains by June 30, 2014. DBHDS also will work with providers and CSBs to determine the most efficient methodology to collect this data and how it will provide regular reports on the measures to providers, CSBs, and the public.

Table 3: July 1, 2012 – June 30, 2013 Milestones in DOJ Settlement Agreement

DOJ Milestone	Compliance Date	Summary of Activity (July 1, 2012 – October 31, 2012)
C.1.a. The Commonwealth shall create a minimum of 805 slots to enable individuals in the target population in the Training Centers to transition to the community according to the following schedule: ii. In State FY 2013, 160 waiver slots	By June 30, 2013	DBHDS has had 41 discharges between July 1, 2012 and October 31, 2012. 32 have used waiver slots 7 have moved to an ICF 2 have moved to nursing facility
C.1.b. The Commonwealth shall create a minimum of 2,915 waiver slots to prevent the institutionalization of individuals with intellectual disabilities in the target population who are on the urgent wait list for a waiver… ii. In State FY 2013, 225 waiver slots, including 25 slots prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs	By June 30, 2013	DBHDS uses a CMS-approved slot allocation methodology to distribute community ID waiver slots to CSBs. The CSBs then distribute these slots to individuals on their urgent needs wait list. In June 2012, DBHDS notified CSBs of their slot allocation and the slots were distributed. DBHDS and DMAS are working with Centers for Independent Living and the Virginia Board for People with Disabilities to determine how to identify individuals in nursing facilities or community ICFs who would choose waiver slots.
C.1.c. The Commonwealth shall create a minimum of 450 waiver slots to prevent the institutionalization of individuals with developmental disabilities other than ID in the target population who are on the waitlist for a waiver… In State FY 2013, 25 waiver slots, including 15 slots prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs	By June 30, 2013	DMAS uses a CMS-approved slot allocation methodology to distribute community DD waiver slots. In July 2012, DMAS distributed slots. DBHDS and DMAS are working with Centers for Independent Living and the Virginia Board for People with Disabilities to determine how to identify individuals in nursing facilities or community ICFs who would choose waiver slots.

DOJ Milestone	Compliance Date	Summary of Activity (July 1, 2012 – October 31, 2012)
C.2.a. The Commonwealth shall create an individual and family support program for individuals with ID/DD whom the Commonwealth determines to be most at risk of institutionalization, according to the following schedule: a. In State Fiscal Year 2013, a minimum of 700 individuals supported	By June 30, 2013	DBHDS has draft regulations that have been approved by its Board and are currently undergoing review in Town Hall. DBHDS developed the draft regulations and a draft application with a workgroup comprised of stakeholders. The workgroup is currently working with DBHDS to develop outreach strategies. DBHDS has designated an existing staff person to serve as the program manager. DBHDS will be recruiting and hiring two staff to assist in the operation of the program. It is anticipated the program will begin operation in March 2013.
C.6.b.ii.G. By June 30, 2013, the Commonwealth shall have at least two mobile crisis teams in each Region that shall respond to on-site crises within two hours.	By June 30, 2013	Each Region continues development of the initial mobile crisis teams. During the remainder of FY13, data will be collected on response times and the size and location of the additional mobile crisis teams will developed accordingly.
C.6.b.iii.F. By June 30, 2013, the Commonwealth shall develop an additional crisis stabilization program in each Region as determined necessary by the Commonwealth to meet the needs of the target population in that Region.	By June 30, 2013	DBHDS, along with its five regional START Programs, will continue to assess the need for additional crisis stabilization programs throughout the state once they are operational. Should the data collected on crisis requests and admissions demonstrate the need for increased capacity, additional program(s) will need to be developed.
C.7.b.i. 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.	September 6, 2012	The DBHDS Strategic Plan for Employment First was published on November 8, 2012.

DOJ Milestone	Compliance Date	Summary of Activity (July 1, 2012 – October 31, 2012)
C.9. …the Commonwealth will provide to the General Assembly within one year of the effective date of this Agreement, a plan, developed in consultation with the Chairman of Virginia's House of Delegates Appropriations and Senate Finance Committees, to cease residential operations at four of the five training centers by the end of the State Fiscal Year 2021.	March 6, 2013	DBHDS is working with the Office of the Secretary of Health and Human Resources to update the original closure plan submitted February 13, 2012, 'Plan to Transform the System of Care for Individuals with Intellectual Disability in the Commonwealth of Virginia' (Report Document 86). The Office of the Secretary of Health and Human Resources is in consultation with House Appropriations and Senate Finance staff about gathering input for the development of this plan.
D.3. Within 365 days of this Agreement, the Commonwealth shall develop a plan to increase access to independent living options such as individuals' own homes or apartments.	March 6, 2013	DBHDS' Housing Coordinator is facilitating a workgroup comprised of DBHDS, DMAS, VBPD, DARS, VHDA, DHCD, and others to draft a plan.
D.4. Within 365 days of this Agreement, the Commonwealth shall establish and begin distributing, from a one-time fund of $800,000 to provide and administer rental assistance in accordance with the recommendations described in the [Housing Plan].	March 6, 2013	The plan referenced above will include plans to distribute from this fund.

DOJ Milestone	Compliance Date	Summary of Activity (July 1, 2012 – October 31, 2012)
V.D.3. The Commonwealth shall begin collecting and analyzing reliable data about individuals receiving services under this Agreement selected from the following areas in State Fiscal year 2012 and will ensure reliable data is collected and analyzed from each these areas by June 30, 2014… i. Safety and freedom from harm j. Physical, mental, and behavioral health and well being k. Avoiding crises l. Stability m. Choice and self-determination n. Community inclusion o. Access to services p. Provider capacity	By June 30, 2013, additional measures in additional domains must be added	A project team has been established to address data collection across domains.
V.E.2. Within 12 months of the effective date of this Agreement, the Commonwealth shall develop measures that CSBs and other community providers are required to report to DBHDS on a regular basis, either through their risk management/critical incident reporting requirements or through their QI program….The measures will be monitored and reviewed by the DBHDS quality improvement committee, with input from the Regional Quality Councils.	March 6, 2013.	Project Teams have been established to address the risk management/critical incident reporting requirements, regional quality councils, and the development of measures to address quality improvement.

DOJ Milestone	Compliance Date	Summary of Activity (July 1, 2012 – October 31, 2012)
V.F.3. Within 12 months of the effective date of this Agreement, the individual's case manager shall meet with the individual face to face at least every 30 days, and at least one such visit every two months must be in the individual's place of resident, for any individuals who: a. Receive services from providers having conditional or provisional licenses; b. Have more intensive behavioral or medical needs as defined by the Supports Intensity Scale ("SIS) category representing the highest level of risk to individuals; c. Have an interruption of service greater than 30 days; d. Encounter the crisis system for a serious crisis or for multiple less serious crises within a three-month period; e. Have transitioned from a Training Center within the previous 12 months; or f. Reside in congregate settings of 5 or more individuals.	March 6, 2013 .	Case management operational guidance will be issued in early December 2012.
V.F.4. Within 12 months from the effective date of this Agreement, the Commonwealth shall establish a mechanism to collect reliable data from the case managers on the number, type, and frequency of case manager contacts with the individual.	March 6, 2013	DBHDS is working with the CSB Data Management Committee to determine the best methodology to collect this data. DBHDS is coordinating closely with DMAS to ensure similar data can be collected from DD case managers.
V.F.6. The Commonwealth shall develop a statewide core-competency-based training curriculum for case managers within 12 months of the effective date of this Agreement.	March 6, 2013	Module core competency-based curriculum has been completed for case managers. 3,405 have been trained as of October 31, 2012. Development of Module 7 on Accountability will begin on October 15th with a projected completion date of March 2013.

DOJ Milestone	Compliance Date	Summary of Activity (July 1, 2012 – October 31, 2012)
V.G.2. Within 12 months of the effective date of this Agreement, the Commonwealth shall have and implement a process to conduct more frequent licensure inspections of community providers serving individuals under this Agreement, including: g. Providers who have conditional or provisional licenses; h. Providers who serve individuals with intensive behavioral or medical needs as defined by the Supports Intensity Scale ("SIS) category representing the highest level of risk to individuals; i. Providers who serve individuals who have an interruption of service greater than 30 days; j. Providers who serve individuals who encounter the crisis system for a serious crisis or for multiple less serious crises within a three-month period; k. Providers who serve individuals who have transitioned from a Training Center within the previous 12 months; or l. Providers who serve individuals in congregate settings of 5 or more individuals.	March 6, 2013	A Project Team has been established to develop procedures and measures for more frequent licensure inspections, as required in V.G.2 and V.G.3. Licensure visits have been increased for those individuals discharged from training centers since February 2012.

DOJ Milestone	Compliance Date	Summary of Activity (July 1, 2012 – October 31, 2012)
V.G.3. Within 12 months of the effective date of this Agreement, the Commonwealth shall ensure that the licensure process assesses the adequacy of the individualized supports and services provided to persons receiving services under this Agreement in each of the domains and that these data and assessments are reported to DBHDS.	March 6, 2013	See above

Future Milestones in the DOJ Settlement Agreement and Stakeholder Involvement

Achieving the implementation milestones in the Settlement Agreement for the periods of March 6, 2012 – June 30, 2012 and July 1, 2012 – October 31, 2012, has not been the only focus of Virginia's efforts to advance the terms of the Settlement Agreement. DBHDS is working closely with many partner agencies and stakeholders to reach these goals and other long-term goals

Workgroups composed of CSBs, providers, advocacy organizations, peer-advocates, and other interested stakeholders have been formed to begin development of the Individual and Family Supports Program, further define the new case management expectations, identify case management data collection needs, define provider and CSB measures that will be collected, develop provider training curriculum, and address the housing plan. Appendix C shows the different workgroups and accomplishments.

On July 9 and October 22, DBHDS hosted a Settlement Agreement Stakeholder Group to share implementation activities to date and listen to stakeholder input about implementation strengths and areas for improvement. The group meets at least quarterly and serves as a means to share information about implementation and discuss how Virginia will move forward with implementation in future years. Appendix D contains information about the group's membership. There is an opportunity for public comment at each meeting.

Training Center Closures

An outline of the plan to close four of five of Virginia's training centers is provided in the Secretary of Health and Human Resources report on the Trust Fund (Report Document No. 86), "Plan to Transform the System of Care for Individuals with ID in the Commonwealth of Virginia", submitted to the General Assembly in February 2012 (available at http://www.dbhds.virginia.gov/Settlement.htm). At the direction of the 2009 General Assembly, SEVTC, with capacity to serve 75 individuals, will remain open to serve those with the most significant long-term medical and behavioral needs.

DBHDS conducted an analysis at the conclusion of the fiscal year to ensure it continues to meet the downsizing and closure plans laid out by the Governor in Report Document 86 and the General Assembly's FY13-14 biennial budget. DBHDS will conduct this analysis at the end of every fiscal year to ensure it is working with accurate discharge projections. Table 4 shows the original projected facility-specific reduction targets and timeframes for downsizing and the revised projected facility-specific reduction targets. Targets were changed to reflect the delay in the Judge signing the final order entering the Settlement Agreement. Many families of those living at training centers were unwilling to discuss discharges from the training centers until the final order was entered. Consequently, the 8-month delay reduced the number of individuals that can be discharged in FY13.

Table 4 shows DBHDS continues to project closures of SVTC in FY15, NVTC in FY16, SWVTC in FY18, and CVTC in FY20 despite changes in the annual discharge projections

Table 4: Training Center Downsizing and Closure Projections

Fiscal Year	SVTC Original	SVTC-Revised	NVTC Original	NVTC Revised	SWVTC Original	SWVTC Revised	CVTC Original	CVTC Revised
2012	40	40		0		0	20	20
2013	97	68	51	25		15	25	35
2014	97	127	51	64		20	25	25
2015			50	64		20	48	50
2016					58	40	48	56
2017					58	40	48	50
2018					58	38	48	50
2019							48	35
2020							47	26

The General Assembly indicated that DBHDS should move forward with the plan to close SVTC and NVTC through approval of the facility closure costs and facility savings in Item 315 V.1. for the FY13-FY14 biennium. As mentioned earlier in this report, 117 individuals have moved from training centers since January 2012, and DBHDS will continue working with families to discharge residents.

DBHDS is working closely with staff at SVTC to provide assistance to employees as the facility continues to downsize. DBHDS is collaborating with training center leadership, the Virginia Community College System Rapid Response Team, the Department of Human Resources Management (DHRM) and other agencies identified below. The following bullets outline current, planned, and previous human resource activities supporting DBHDS employees:

- **Progressive Retention Bonus Plan** – This plan has been approved by the Administration and was implemented at SVTC on July 1, 2012, to help retain critical positions and maintain a viable working staff as the facility moves forward with closure in 2014. The plan provides for a progressive retention bonus, paid according to performance and criticality of skill sets needed to maintain CMS certification until all individuals are safely placed in the community. Similar retention plans will be developed at the other training centers as they progress toward closure. The facility will absorb the cost of implementing this retention plan through existing funds. The first quarter payouts for the retention bonus were made November 1, 2012 at SVTC. 712 retention bonuses were earned. While it is very early to be able to determine the impact of this retention incentive, it appears that it has slowed the exodus of professional clinical staff and experienced direct support staff.

- **Internal Newsletter** – "The Bridge", has been developed at SVTC and is distributed quarterly to enhance communications, help staff cope with the closure, and keep them aware of planned activities that support further career development and their individualized interests/needs. A similar newsletter will begin soon at NVTC.

- **Entrepreneurial Express** – A partnership was developed with the Small Business Administration, the Department of Minority Business Enterprise, Virginia's Community Colleges, Rapid Response, Workforce Development Services, the Department of Business Assistance, representatives from private provider organizations and DBHDS staff. After surveys were conducted, "The Entrepreneurial Express" training sessions for employees were developed by

the team and held July 11, 2012 and October 17, 2012. These have been tailored to the individual needs of the employees expressing an interest in starting their own business.

- **The Career Center** opened on July 18, 2012, with the assistance of the Rapid Response Team, to provide employees with a library of resources to assist them with their personal and professional development and job search. It will also provide group and individual consultations and workshops. Classes in all of "Microsoft Suite" functions, e.g. "MS Word", "MS Excel", "MS Outlook", etc., have been provided and continue. Also, classes in "Setting S.M.A.R.T Career Goals"; "Interviewing To Snag That Job"; "Planning for and Organizing a Job Search"; "Resume Building"; "Creating A State Application"; "Managing Stress"; "Time Management", etc., continue and are planned for NVTC. New classes in "Budgeting and Reconciling Resources"; "Certified Nursing Assistant classes"; and other labor market classes are planned.

- **Consultation and Guidance** – The Human Resources Office staff from SVTC and Central State Hospital (CSH) are continuing to provide consultation and guidance on "enhanced retirement and severance benefits." Individual estimates are anticipated to be completed by the end of August 2012. The Human Resources Office will expand its hours of operation during peak periods of layoffs/retirements in order to effectively meet the needs of impacted staff on all shifts. Approximately 958 of SVTC's approximately 1,100 employees met individually with HR team members and partner agencies by mid September 2012. Meetings were scheduled with all employees; however, this represents the approximate total number of employees who attended individual meetings.

- **Job Fair** - A licensed provider job fair is anticipated to be held on the SVTC campus in the second quarter of 2013.

- **Managers/Supervisors/Leadership Transition Training** – How to Manage Employees in a Change Environment. As a result of the DBHDS partnership with the VA Community College System, the Rapid Response Team offered a workshop for supervisors of SVTC and NVTC. This workshop provided practical, actionable guidance and resources on how supervisors could effectively maintain a productive environment during this business transition. Sessions were held at SVTC on March 29th and at NVTC on April 11th. Approximately 100 supervisors attended, and sessions will also be scheduled for SVTC and CVTC supervisors.

- **Employee Information Sessions** – In collaboration, DBHDS Human Resource Development & Management, SVTC Human Resources, NVTC Human Resources, the VCCS Rapid Response Team, VEC, and VRS offered employee informational sessions on services provided to dislocated workers and the upcoming resources available to them on site. Over a three-day period, sessions were held on all three shifts and employees had an opportunity for questions and answers, including one-on-one discussions with the various representatives after the sessions. Over 930 employees attended the Southside sessions and over 276 employees attended the Northern Virginia sessions. Additional employee information sessions for SWVTC and CVTC will be held in the future.

- **Commissioner's Employee Forums** – From January 27th to February 22nd, the Commissioner, Deputy Commissioner, Assistant Commissioner of DD and the Human Resources Director conducted employee forums at the four training centers planned for closure(SVTC, NVTC,

SWVTC, CVTC). These sessions were held on all three shifts to communicate information regarding the settlement agreement between the Commonwealth and DOJ; timeframe for closures; community capacity; projected reduction in census and discharge processes; quality of continuing services to individuals served; and, human resources employee retention assistance and resources were discussed. Over 1,700 employees attended the forums.

Waiver Programs

Both the DD waiver and ID waiver are due for renewal with CMS in the next two years. The Settlement Agreement does not require changes to Virginia's waiver programs. However, DBHDS and DMAS will be studying ways to make its current waiver programs more efficient and effective over the next year. A preview of these changes was described in the DMAS study submitted in accordance with Item 297. BBBBB. of the 2011 *Appropriation Act,* "Review of Potential Waiver Changes and Associated Costs Related to Improving Intellectual Disability (ID), Day Support (DS), and Individual and Family Developmental Disabilities Support Waivers " (Report Document No. 76, 2012).

During FY13 and FY14, DBHDS and DMAS studied these changes in concert with stakeholders to identify potential updates to the waiver programs, options to restructure how they operate, and potential rate increases. One of the fundamental changes which may be recommended is to move from a system that serves individuals with intellectual disability and individuals with other developmental disabilities separately, based on diagnosis, to a system that provides supports to individuals with developmental disabilities based on their needs.

Expenditures

Item 305.W. of the 2012 *Appropriation Act* provided $30M to the BHDS Trust Fund, which was established in §37.2-319 during the 2012 General Assembly. The *Code* requires:

> *For each fiscal year starting with the Commonwealth's 2011-2012 fiscal year, any funds directed to be deposited into the Fund pursuant to the general Appropriation Act shall be appropriated for financing (i) a broad array of community-based services including but not limited to Intellectual Disability Home and Community Based Waivers or (ii) appropriate community housing, for the purpose of transitioning individuals with mental retardation from state training centers to community-based care.*

Based on this directive, the Secretary of Health and Human Resources approved the expenditures in Table 5 in FY12 from the Trust Fund. The expenditures included funding for 60 waiver slots to transition individuals from SVTC and CVTC to the community. One-time start-up funds and case management funds for individuals living in training centers were also provided. Funding was provided for the Independent Reviewer to begin working in Virginia between March 6 and June 30, 2012.

Funding was also approved to begin hiring critical staff to assist in implementing the discharge process and increasing community oversight. Remaining balances from the FY12 $30M BHDS Trust Fund were shifted to FY13 for use in implementing the DOJ Settlement Agreement in Item 315. U. Item 315.V.1. of the 2012 *Appropriation Act* includes the categories in Table 5 for disbursement of the appropriation. The table also includes expenditures to date.

Table 5: Budget and Expenditures through October 19, 2012

	Appropriation Act Budget FY13	Appropriation Act Budget FY14			Actual FY12		Actual FY13	Total Budget	Total Actual Expenses	Balance
Facility Transition Costs	11,309,540	19,534,660				**(5)**	10,115,142	30,844,200	10,115,142	20,729,058
Community ID and DD Waivers	19,615,150	27,642,275	(1)	(2)	125,755	**(5)**	6,137,100	47,257,425	6,262,855	40,994,570
Program of Individual and Family Supports	2,400,000	3,200,000						5,600,000	-	5,600,000
Rental Subsidies	800,000							800,000	-	800,000
Crisis Stabilization	5,000,000	10,000,000					2,588,536	15,000,000	2,588,536	12,411,464
Facility Closure Costs	2,749,885	8,397,855						11,147,740	-	11,147,740
Administration (3)	1,313,682	1,807,338		(2)	168,724		428,742	3,121,020	597,466	2,523,554
Quality Management (4)	1,787,000	1,537,000					27,500	3,324,000	27,500	3,296,500
Independent Review	300,000	300,000		(2)	56,062		77,136	600,000	133,198	466,802
Facility Savings	(5,846,989)	(23,364,535)						(29,211,524)	-	(29,211,524)
Total	39,428,268	49,054,593			350,541		19,374,156	88,482,861	19,724,697	68,758,164

(1) Includes case mgmt and waiver start up
(2) FY12 expenditures were made from the original $30,000,000 trust fund
(3)Includes positions, operating costs for Licensure, trust fund coordinator, Developmental Services, Human Rights and ITS
(4) Includes licensing system, discharge monitoring and data warehouse
(5) Budget entry made to transfer match to DMAS.

Appendix A:
Settlement Agreement between the US Department of Justice and the Commonwealth of Virginia

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	CIVIL ACTION NO: 3:12cv059-JAG
v.	)	
COMMONWEALTH OF VIRGINIA,	)	
Defendants,	)	
and	)	
PEGGY WOOD, *et al.*	)	
Intervenor-Defendants.	)	

SETTLEMENT AGREEMENT

I. Introduction

A. The Commonwealth of Virginia ("the Commonwealth") and the United States (together, "the Parties") are committed to full compliance with Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101, as interpreted by *Olmstead v. L.C.*, 527 U.S. 581 (1999). This Agreement is intended to ensure the Commonwealth's compliance with the ADA and *Olmstead*, which require that, to the extent the Commonwealth offers services to individuals with intellectual and developmental disabilities, such services shall be provided in the most integrated setting appropriate to meet their needs. Accordingly, throughout this document, the Parties intend that the goals of community integration, self-determination, and quality services will be achieved.

B. On August 21, 2008, the United States Department of Justice ("United States") initiated an investigation of Central Virginia Training Center ("CVTC"), the largest of Virginia's five state-operated intermediate care facilities for persons with intellectual and developmental disabilities ("ICFs"), pursuant to the Civil Rights of Institutionalized Persons Act ("CRIPA"), 42 U.S.C. § 1997. On April 21, 2010, the United States notified the Commonwealth that it was expanding its investigation under the ADA to focus on the Commonwealth's compliance with the ADA's integration mandate and *Olmstead* with respect to individuals at CVTC. During the course of the expanded investigation,

however, it became clear that an examination of the Commonwealth's measures to address the rights of individuals at CVTC under the ADA and *Olmstead* implicated the statewide system for serving individuals with intellectual and developmental disabilities and required a broader scope of review. Accordingly, the policies and practices that the United States examined in its expanded investigation were statewide in scope and application. On February 10, 2011, the United States issued its findings, concluding that the Commonwealth fails to provide services to individuals with intellectual and developmental disabilities in the most integrated setting appropriate to their needs as required by the ADA and *Olmstead.*

C. The Commonwealth engaged with the United States in open dialogue about the allegations and worked with the United States to resolve the alleged violations of the ADA arising out of the Commonwealth's provision of services for individuals with intellectual and developmental disabilities.

D. In order to resolve all issues pending between the Parties without the expense, risks, delays, and uncertainties of litigation, the United States and the Commonwealth agree to the terms of this Settlement Agreement as stated below. This Agreement resolves the United States' investigation of CVTC, as well as its broader examination of the Commonwealth's compliance with the ADA and *Olmstead* with respect to individuals with intellectual and developmental disabilities.

E. By entering into this Settlement Agreement, the Commonwealth does not admit to the truth or validity of any claim made against it by the United States.

F. The Parties acknowledge that the Court has jurisdiction over this case and authority to enter this Settlement Agreement and to enforce its terms as set forth herein.

G. No person or entity is intended to be a third-party beneficiary of the provisions of this Settlement Agreement for purposes of any other civil, criminal, or administrative action, and, accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Settlement Agreement in any separate action. This Settlement Agreement is not intended to impair or expand the right of any person or organization to seek relief against the Commonwealth or their officials, employees, or agents.

H. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331; 28 U.S.C. § 1345; and 42 U.S.C. §§ 12131-12132. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

II. Definitions

A. "Developmental disability" means a severe, chronic disability of an individual that: (1) is attributable to a mental or physical impairment or combination of mental and physical impairments; (2) is manifested before the individual attains age 22; (3) is likely to continue indefinitely; (4) results in substantial functional limitations in 3 or more of the following areas of major life activity: (a) self-care; (b) receptive and expressive language; (c) learning; (d) mobility; (e) self-direction; (f) capacity for independent living; (g) economic self-sufficiency; and (5) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or

other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated. 42 U.S.C. § 15002.

B. "Intellectual disability" means a disability characterized by significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behavior, which covers a range of everyday social and practical skills. This disability originates before the age of 18. An intellectual disability is a type of developmental disability.

C. Home and Community-Based Services Waivers ("HCBS Waivers") means the program approved by the Centers for Medicare and Medicaid Services ("CMS") for the purpose of providing services in community settings for eligible persons with developmental disabilities who would otherwise be served in ICFs. For purposes of this Settlement Agreement, "HCBS Waivers" includes the Intellectual Disabilities Waiver ("ID Waiver") and the Individual and Family Developmental Disabilities Support Waiver ("DD Waiver"), or any other CMS approved waivers that are equivalent to the ID or DD Waivers that may be created after the execution of this Agreement.

D. Individual and family supports are defined as a comprehensive and coordinated set of strategies that are designed to ensure that families who are assisting family members with intellectual or developmental disabilities ("ID/DD") or individuals with ID/DD who live independently have access to person-centered and family-centered resources, supports, services and other assistance. Individual and family supports are targeted to individuals not already receiving services under HCBS waivers, as defined in Section II.C above. The family supports provided under this Agreement shall not supplant or in any way limit the availability of services provided through the Elderly or Disabled with Consumer Direction ("EDCD") waiver, Early and Periodic Screening, Diagnosis and Treatment ("EPSDT"), or similar programs.

E. As used in this Agreement, the term Authorized Representative means a person authorized to make decisions about treatment or services, including residence, on behalf of an individual who lacks the capacity to consent.

1. The Authorized Representative shall be recognized by the Commonwealth (which may be delegated to local care providers) from the following, if available:

   a. An attorney-in-fact who is currently empowered to consent or authorize the disclosure under the terms of a durable power of attorney;

   b. A health care agent appointed by the individual under an advance directive or power of attorney in accordance with the laws of Virginia; or

   c. A legal guardian of the individual, or if the individual is a minor, a parent with legal custody of the minor or other person authorized to consent to treatment pursuant to §54.1-2969A of the Code of Virginia.

2. If an attorney-in-fact, health care agent or legal guardian is not available, the Commonwealth or its designee shall designate a substitute decision maker as Authorized Representative in the following order of priority:

   a. The individual's family member as designated by the individual, unless doing so is clinically contraindicated.

   b. If the individual does not have a preference or the preference is clinically contraindicated, the best qualified person shall be selected according to the following order of priority:

      i. A spouse;
      ii. An adult child;
      iii. A parent;
      iv. An adult brother or sister; or
      v. Any other relative of the individual.

   c. Next friend of the individual. If no other person specified above is available and willing to serve as Authorized Representative, the Commonwealth or its designee may designate a next friend of the individual in accordance with 12 VAC 35-115-146, who has either:

      i. Shared a residence with the individual; or
      ii. Had regular contact or communication with the individual and provided significant emotional, personal, financial, spiritual, psychological, or other support and assistance to the individual.

3. No director, employee, or agent of a provider of services may serve as an Authorized Representative for any individual receiving services delivered by that provider unless the Authorized Representative is a relative or the legal guardian.

III. Serving Individuals with Developmental Disabilities In the Most Integrated Setting

A. 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 in this Section.

B. Target Population:

   1. The target population of this Agreement shall include individuals with ID/DD who meet any of the following additional criteria:

      a. are currently residing at any of the Training Centers;

b. who (i) meet the criteria for the wait list for the ID waiver, or (ii) meet the criteria for the wait list for the DD waiver; or

c. currently reside in a nursing home or ICF.

2. The Commonwealth shall not exclude any otherwise qualifying individual from the target population due to the existence of complex behavioral or medical needs or of co-occurring conditions, including but not limited to, mental illness, traumatic brain injuries, or other neurological conditions.

3. Individuals shall remain in the target population if they receive HCBS waiver services or individual and family supports under this Agreement.

4. Individuals who are otherwise in the target population and who have been released from forensic status or placed on conditional release by a court shall not be excluded from the target population solely on the basis of their former forensic status or current conditional release status.

5. Inclusion in the target population does not guarantee or create a right to receipt of services.

C. Enhancement of Community Services

1. By June 30, 2021, the Commonwealth shall create 4,170 waiver slots for the target population, to be broken down as follows:

a. The Commonwealth shall create a minimum of 805 waiver slots to enable individuals in the target population in the Training Centers to transition to the community according to the following schedule:

i. In State Fiscal Year 2012, 60 waiver slots

ii. In State Fiscal Year 2013, 160 waiver slots

iii. In State Fiscal Year 2014, 160 waiver slots

iv. In State Fiscal Year 2015, 90 waiver slots

v. In State Fiscal Year 2016, 85 waiver slots

vi. In State Fiscal Year 2017, 90 waiver slots

vii. In State Fiscal Year 2018, 90 waiver slots

viii. In State Fiscal Year 2019, 35 waiver slots

ix. In State Fiscal Year 2020, 35 waiver slots

b. The Commonwealth shall create a minimum of 2,915 waiver slots to prevent the institutionalization of individuals with intellectual disabilities in the target population who are on the urgent waitlist for a waiver, or to transition to the

community individuals with intellectual disabilities under 22 years of age from institutions other than the Training Centers (i.e., ICFs and nursing facilities), according to the following schedule:

i. In State Fiscal Year 2012, 275 waiver slots

ii. In State Fiscal Year 2013, 225 waiver slots, including 25 slots prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

iii. In State Fiscal Year 2014, 225 waiver slots, including 25 slots prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

iv. In State Fiscal Year 2015, 250 waiver slots, including 25 slots prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

v. In State Fiscal Year 2016, 275 waiver slots, including 25 slots prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

vi. In State Fiscal Year 2017, 300 waiver slots

vii. In State Fiscal Year 2018, 325 waiver slots

viii. In State Fiscal Year 2019, 325 waiver slots

ix. In State Fiscal Year 2020, 355 waiver slots

x. In State Fiscal Year 2021, 360 waiver slots

c. The Commonwealth shall create a minimum of 450 waiver slots to prevent the institutionalization of individuals with developmental disabilities other than intellectual disabilities in the target population who are on the waitlist for a waiver, or to transition to the community individuals with developmental disabilities other than intellectual disabilities under 22 years of age from institutions other than the Training Centers (i.e., ICFs and nursing facilities), according to the following schedule:

i. In State Fiscal Year 2012, 150 waiver slots

ii. In State Fiscal Year 2013, 25 waiver slots, including 15 prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

iii. In State Fiscal Year 2014, 25 waiver slots, including 15 prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

iv. In State Fiscal Year 2015, 25 waiver slots, including 15 prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

v. In State Fiscal Year 2016, 25 waiver slots, including 15 prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

vi. In State Fiscal Year 2017, 25 waiver slots, including 10 prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

vii. In State Fiscal Year 2018, 25 waiver slots, including 10 prioritized for individuals under 22 years of age residing in nursing homes and the largest ICFs

viii. In State Fiscal Year 2019, 25 waiver slots

ix. In State Fiscal Year 2020, 50 waiver slots

x. In State Fiscal Year 2021, 75 waiver slots

d. If the Commonwealth creates more waiver slots than are required in Sections III.C.1.a, b, or c above for a particular fiscal year, the number of slots created above the requirement shall be counted towards the slots required to be created in the subsequent fiscal year in the relevant Section.

2. The Commonwealth shall create an individual and family support program for individuals with ID/DD whom the Commonwealth determines to be most at risk of institutionalization, according to the following schedule:

a. In State Fiscal Year 2013, a minimum of 700 individuals supported

b. In State Fiscal Year 2014, a minimum of 1000 individuals supported

c. In State Fiscal Year 2015, a minimum of 1000 individuals supported

d. In State Fiscal Year 2016, a minimum of 1000 individuals supported

e. In State Fiscal Year 2017, a minimum of 1000 individuals supported

f. In State Fiscal Year 2018, a minimum of 1000 individuals supported

g. In State Fiscal Year 2019, a minimum of 1000 individuals supported

h. In State Fiscal Year 2020, a minimum of 1000 individuals supported

i. In State Fiscal Year 2021, a minimum of 1000 individuals supported

3. If the Commonwealth substantially changes or amends its ID or DD waivers, the Parties shall meet within 15 days of final approval from CMS to determine if any

provisions of this Agreement should be amended. The Parties agree that under any new terms, at least as many individuals in each category in Sections III.C.1.a, b, and c and C.2 above shall receive HCBS waivers and individual and family supports under the Agreement. If the Parties cannot reach agreement within 90 days, the Court shall resolve the dispute.

4. With the consent of the United States and the Independent Reviewer, the Commonwealth may re-allocate any unused waiver slot from one category of III.C.1.a-c to another in any State Fiscal Year covered by this Agreement.

5. Case Management

   a. The Commonwealth shall ensure that individuals receiving HCBS waiver services under this Agreement receive case management.

   b. For the purposes of this agreement, case management shall mean:

      i. Assembling professionals and nonprofessionals 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 Support Plans ("ISP") that are individualized, person-centered, and meet the individual's needs;

      ii. Assisting the individual to gain access to needed medical, social, education, transportation, housing, nutritional, therapeutic, behavioral, psychiatric, nursing, personal care, respite, and other services identified in the ISP; and

      iii. Monitoring the ISP to make timely additional referrals, service changes, and amendments to the plans as needed.

   c. Case management shall be provided to all individuals receiving HCBS waiver services under this Agreement by case managers who are not directly providing such services to the individual or supervising the provision of such services. The Commonwealth shall include a provision in the Community Services Board ("CSB") Performance Contract that requires CSB case managers to give individuals a choice of service providers from which the individual may receive approved waiver services and to present practicable options of service providers based on the preferences of the individual, including both CSB and non-CSB providers.

   d. The Commonwealth shall establish a mechanism to monitor compliance with performance standards.

6. Crisis Services

   a. The Commonwealth shall develop a statewide crisis system for individuals with intellectual and developmental disabilities. The crisis system shall:

i. Provide timely and accessible support to individuals with intellectual and developmental disabilities who are experiencing crises, including crises due to behavioral or psychiatric issues, and to their families;

ii. Provide services focused on crisis prevention and proactive planning to avoid potential crises; and

iii. Provide in-home and community-based crisis services that are directed at resolving crises and preventing the removal of the individual from his or her current placement whenever practicable.

b. The crisis system shall include the following components:

i. Crisis Point of Entry

A. The Commonwealth shall utilize existing CSB Emergency Services, including existing CSB hotlines, for individuals to access information about and referrals to local resources. Such hotlines shall be operated 24 hours per day, 7 days per week and staffed with clinical professionals who are able to assess crises by phone and assist the caller in identifying and connecting with local services. Where necessary, the crisis hotline will dispatch at least one mobile crisis team member who is adequately trained to address the crisis.

B. By June 30, 2012, the Commonwealth shall train CSB Emergency Services personnel in each Health Planning Region ("Region") on the new crisis response system it is establishing, how to make referrals, and the resources that are available.

ii. Mobile crisis teams

A. Mobile crisis team members adequately trained to address the crisis shall respond to individuals at their homes and in other community settings and offer timely assessment, services, support, and treatment to de-escalate crises without removing individuals from their current placement whenever possible.

B. Mobile crisis teams shall assist with crisis planning and identifying strategies for preventing future crises and may also provide enhanced short-term capacity within an individual's home or other community setting.

C. Mobile crisis team members adequately trained to address the crisis also shall work with law enforcement personnel to respond if an individual with ID/DD comes into contact with law enforcement.

D. Mobile crisis teams shall be available 24 hours per day, 7 days per week and to respond on-site to crises.

E. Mobile crisis teams shall provide local and timely in-home crisis support for up to 3 days, with the possibility of an additional period of up to 3 days upon review by the Regional Mobile Crisis Team Coordinator.

F. By June 30, 2012, the Commonwealth shall have at least one mobile crisis team in each Region that shall respond to on-site crises within three hours.

G. By June 30, 2013, the Commonwealth shall have at least two mobile crisis teams in each Region that shall respond to on-site crises within two hours.

H. By June 30, 2014, the Commonwealth shall have a sufficient number of mobile crisis teams in each Region to respond on site to crises as follows: in urban areas, within one hour, and in rural areas, within two hours, as measured by the average annual response time.

iii. Crisis stabilization programs

A. Crisis stabilization programs offer a short-term alternative to institutionalization or hospitalization for individuals who need inpatient stabilization services.

B. Crisis stabilization programs shall be used as a last resort. The State shall ensure that, prior to transferring an individual to a crisis stabilization program, the mobile crisis team, in collaboration with the provider, has first attempted to resolve the crisis to avoid an out-of-home placement and if that is not possible, has then attempted to locate another community-based placement that could serve as a short-term placement.

C. If an individual receives crisis stabilization services in a community-based placement instead of a crisis stabilization unit, the individual may be given the option of remaining in the placement if the provider is willing and has capacity to serve the individual and the provider can meet the needs of the individual as determined by the provider and the individual's case manager.

D. Crisis stabilization programs shall have no more than six beds and lengths of stay shall not exceed 30 days.

E. With the exception of the Pathways Program operated at Southwestern Virginia Training Center ("SWVTC"), crisis stabilization programs shall not be located on the grounds of the Training Centers or hospitals with inpatient psychiatric beds. By July 1, 2015, the Pathways Program at SWVTC will cease providing crisis stabilization services and shall be replaced by off-site crisis stabilization programs with sufficient capacity to meet the needs of the target population in that Region.

F. By June 30, 2012, the Commonwealth shall develop one crisis stabilization program in each Region.

G. By June 30, 2013, the Commonwealth shall develop an additional crisis stabilization program in each Region as determined necessary by the Commonwealth to meet the needs of the target population in that Region.

7. Integrated Day Activities and Supported Employment

a. To the greatest extent practicable, the Commonwealth shall provide individuals in the target population receiving services under this Agreement with integrated day opportunities, including supported employment.

b. 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. 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. The Commonwealth shall have at least one employment service coordinator to monitor implementation of Employment First practices for individuals in the target population.

i. 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. The plan will be under the direct supervision of a dedicated employment service coordinator for the Commonwealth and shall:

A. Provide regional training on the Employment First policy and strategies throughout the Commonwealth; and

B. Establish, for individuals receiving services through the HCBS waivers:

1. 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.

2. 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.

c. Regional Quality Councils, described in Section V.D.5 below, shall review data regarding the extent to which the targets identified in Section III.C.7.b.i.B.2 above 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.

d. The Regional Quality Councils shall annually review the targets set pursuant to Section III.C.7.b.i.B.2 above and shall work with providers and the SELN in determining whether the targets should be adjusted upward.

8. Access and Availability of Services

a. The Commonwealth shall provide transportation to individuals receiving HCBS waiver services in the target population in accordance with the Commonwealth's HCBS Waivers.

b. The Commonwealth shall publish guidelines for families seeking intellectual and developmental disability services on how and where to apply for and obtain services. The guidelines will be updated annually and will be provided to appropriate agencies for use in directing individuals in the target population to the correct point of entry to access services.

9. The Commonwealth has made public its long-standing goal and policy, independent of and adopted prior to this Agreement or the Department of Justice's findings, of transitioning from an institutional model of care to a community-based system that meets the needs of all individuals with ID/DD, including those with the most complex needs, and of using its limited resources to serve effectively the greatest number of individuals with ID/DD. This goal and policy have resulted in a decline in the population of the state training centers from approximately 6000 individuals to approximately 1000 individuals. The Commonwealth has determined that this significant and ongoing decline makes continued operation of residential services fiscally impractical. Consequently, and in accordance with the Commonwealth's policy of transitioning its system of developmental services to a community-based

system, the Commonwealth will provide to the General Assembly within one year of the effective date of this Agreement, a plan, developed in consultation with the Chairmen of Virginia's House of Delegates Appropriations and Senate Finance Committees, to cease residential operations at four of the five training centers by the end of State Fiscal Year 2021.

D. Community Living Options

1. The Commonwealth shall serve individuals in the target population in the most integrated setting consistent with their informed choice and needs.

2. The Commonwealth shall facilitate individuals receiving HCBS waivers under this Agreement to live in their own home, leased apartment, or family's home, when such a placement is their informed choice and the most integrated setting appropriate to their needs. To facilitate individuals living independently in their own home or apartment, the Commonwealth shall provide information about and make appropriate referrals for individuals to apply for rental or housing assistance and bridge funding through all existing sources, including local, State, or federal affordable housing or rental assistance programs (tenant-based or project-based) and the fund described in Section III.D.4 below.

3. Within 365 days of this Agreement, the Commonwealth shall develop a plan to increase access to independent living options such as individuals' own homes or apartments. The Commonwealth undertakes this initiative recognizing that comparatively modest housing supports often can enable individuals to live successfully in the most integrated settings appropriate to their needs.

   a. The plan will be developed under the direct supervision of a dedicated housing service coordinator for the Department of Behavioral Health and Developmental Services ("DBHDS") and in coordination with representatives from the Department of Medical Assistance Services ("DMAS"), Virginia Board for People with Disabilities, Virginia Housing Development Authority, Virginia Department of Housing and Community Development, and other organizations as determined appropriate by DBHDS.

   b. The plan will establish, for individuals receiving or eligible to receive services through the HCBS waivers under this Agreement:

      i. Baseline information regarding the number of individuals who would choose the independent living options described above, if available; and

      ii. Recommendations to provide access to these settings during each year of this Agreement.

4. Within 365 days of this Agreement, the Commonwealth shall establish and begin distributing, from a one-time fund of $800,000 to provide and administer rental assistance in accordance with the recommendations described above in Section III.D.3.b.ii, to as many individuals as possible who receive HCBS waivers under this

Agreement, express a desire for living in their own home or apartment, and for whom such a placement is the most integrated setting appropriate to their needs.

5. Individuals in the target population shall not be served in a sponsored home or any congregate setting, unless such placement is consistent with the individual's choice after receiving options for community placements, services, and supports consistent with the terms of Section IV.B.9 below.

6. No individual in the target population shall be placed in a nursing facility or congregate setting with five or more individuals unless such placement is consistent with the individual's needs and informed choice and has been reviewed by the Region's Community Resource Consultant and, under circumstances described in Section III.E below, by the Regional Support Team.

7. The Commonwealth shall include a term in the annual performance contract with the CSBs to require case managers to continue to offer education about less restrictive community options on at least an annual basis to any individuals living outside their own home or family's home (and, if relevant, to their Authorized Representative or guardian).

E. Community Resource Consultants and Regional Support Teams

1. The Commonwealth shall utilize Community Resource Consultant ("CRC") positions located in each Region to provide oversight and guidance to CSBs and community providers, and serve as a liaison between the CSB case managers and DBHDS Central Office. The CRCs shall provide on-site, electronic, written, and telephonic technical assistance to CSB case managers and private providers regarding person-centered planning, the Supports Intensity Scale, and requirements of case management and HCBS Waivers. The CRC shall also provide ongoing technical assistance to CSBs and community providers during an individual's placement. The CRCs shall be a member of the Regional Support Team in the appropriate Region.

2. The CRC may consult at any time with the Regional Support Team. Upon referral to it, the Regional Support Team shall work with the Personal Support Team ("PST") and CRC to review the case, resolve identified barriers, and ensure that the placement is the most integrated setting appropriate to the individual's needs, consistent with the individual's informed choice. The Regional Support Team shall have the authority to recommend additional steps by the PST and/or CRC.

3. The CRC shall refer cases to the Regional Support Teams for review, assistance in resolving barriers, or recommendations whenever:

   a. The PST is having difficulty identifying or locating a particular community placement, services and supports for an individual within 3 months of the individual's receipt of HCBS waiver services.

b. The PST recommends and, upon his/her review, the CRC also recommends that an individual residing in his or her own home, his or her family's home, or a sponsored residence be placed in a congregate setting with five or more individuals.

c. The PST recommends and, upon his/her review, the CRC also recommends an individual residing in any setting be placed in a nursing home or ICF.

d. There is a pattern of an individual repeatedly being removed from his or her current placement.

IV. Discharge Planning and Transition from Training Center

By July 2012, the Commonwealth will have implemented Discharge and Transition Planning processes at all Training Centers consistent with the terms of this Section, excluding other dates agreed upon, and listed separately in this Section.

A. To ensure that individuals are served in the most integrated setting appropriate to their needs, the Commonwealth shall develop and implement discharge planning and transition processes at all Training Centers consistent with the terms of this Section and person-centered principles.

B. Discharge Planning and Discharge Plans

1. Discharge planning shall begin upon admission.

2. Discharge planning shall drive treatment of individuals in any Training Center and shall adhere to the principles of person-centered planning.

3. Individuals in Training Centers shall participate in their treatment and discharge planning to the maximum extent practicable, regardless of whether they have Authorized Representatives. Individuals shall be provided the necessary support (including, but not limited to, communication supports) to ensure that they have a meaningful role in the process.

4. The goal of treatment and discharge planning shall be to assist the individual in achieving outcomes that promote the individual's growth, well being, and independence, based on the individual's strengths, needs, goals, and preferences, in the most integrated settings in all domains of the individual's life (including community living, activities, employment, education, recreation, healthcare, and relationships).

5. The Commonwealth shall ensure that discharge plans are developed for all individuals in its Training Centers through a documented person-centered planning and implementation process and consistent with the terms of this Section. The

discharge plan shall be an individualized support plan for transition into the most integrated setting consistent with informed individual choice and needs and shall be implemented accordingly. The final discharge plan (developed within 30 days prior to discharge) will include:

a. Provision of reliable information to the individual and, where applicable, the Authorized Representative, regarding community options in accordance with Section IV.B.9;

b. Identification of the individual's strengths, preferences, needs (clinical and support), and desired outcomes;

c. Assessment of the specific supports and services that build on the individual's strengths and preferences to meet the individual's needs and achieve desired outcomes, regardless of whether those services and supports are currently available;

d. Listing of specific providers that can provide the identified supports and services that build on the individual's strengths and preferences to meet the individual's needs and achieve desired outcomes;

e. Documentation of barriers preventing the individual from transitioning to a more integrated setting and a plan for addressing those barriers.

   i. Such barriers shall not include the individual's disability or the severity of the disability.

   ii. For individuals with a history of re-admission or crises, the factors that led to re-admission or crises shall be identified and addressed.

6. Discharge planning will be done by the individual's PST. The PST includes the individual receiving services, the Authorized Representative (if any), CSB case manager, Training Center staff, and persons whom the individual has freely chosen or requested to participate (including but not limited to family members and close friends). Through a person-centered planning process, the PST will assess an individual's treatment, training, and habilitation needs and make recommendations for services, including recommendations of how the individual can be best served.

7. Discharge planning shall be based on the presumption that, with sufficient supports and services, all individuals (including individuals with complex behavioral and/or medical needs) can live in an integrated setting.

8. For individuals admitted to a Training Center after the date this Agreement is signed by both parties, the Commonwealth shall ensure that a discharge plan is developed as

described herein within 30 days of admission. For all individuals residing in a Training Center on the date that this Agreement is signed by both parties, the Commonwealth shall ensure that a discharge plan is developed as described herein within six months of the effective date of this Agreement.

9. In developing discharge plans, PSTs, in collaboration with the CSB case manager, shall provide to individuals and, where applicable, their Authorized Representatives, specific options for types of community placements, services, and supports based on the discharge plan as described above, and the opportunity to discuss and meaningfully consider those options.

   a. The individual shall be offered a choice of providers consistent with the individual's identified needs and preferences.

   b. PSTs and the CSB case manager shall coordinate with the specific type of community providers identified in the discharge plan as providing appropriate community-based services for the individual, to provide individuals, their families, and, where applicable, their Authorized Representative with opportunities to speak with those providers, visit community placements (including, where feasible, for overnight visits) and programs, and facilitate conversations and meetings with individuals currently living in the community and their families, before being asked to make a choice regarding options. The Commonwealth shall develop family-to-family and peer programs to facilitate these opportunities.

   c. PSTs and the CSB case managers shall assist the individual and, where applicable, their Authorized Representative in choosing a provider after providing the opportunities described above and ensure that providers are timely identified and engaged in preparing for the individual's transition.

10. Nothing in this Agreement shall prevent the Commonwealth from closing its Training Centers or transferring residents from one Training Center to another, provided that, in accordance with Virginia Code 37.2-837(A)(3), for as long as it remains effective, no resident of a Training Center shall be discharged from a Training Center to a setting other than a Training Center if he or his Authorized Representative chooses to continue receiving services in a Training Center. If the General Assembly repeals Virginia Code 37.2-837(A)(3), the Commonwealth shall immediately notify the Court, the United States, and the Intervenors. The Parties agree that repeal or alteration of Virginia Code 37.2-837(A)(3) justifies consideration of relief under Fed. R. Civ. P 60(b)(6).

11. The Commonwealth shall ensure that Training Center PSTs have sufficient knowledge about community services and supports to: propose appropriate options

about how an individual's needs could be met in a more integrated setting; present individuals and their families with specific options for community placements, services, and supports; and, together with providers, answer individuals' and families' questions about community living.

a. In collaboration with the CSBs and community providers, the Commonwealth shall develop and provide training and information for Training Center staff about the provisions of this Agreement, staff obligations under the Agreement, current community living options, the principles of person-centered planning, and any related departmental instructions. The training will be provided to all applicable disciplines and all PSTs.

b. Person-centered thinking training will occur during initial orientation and through annual refresher courses. Competency will be determined through documented observation of PST meetings and through the use of person-centered thinking coaches and mentors. Each Training Center will have designated coaches who receive additional training. The coaches will provide guidance to PSTs to ensure implementation of the person-centered tools and skills. Coaches throughout the state will have regular and structured sessions with person-centered thinking mentors. These sessions will be designed to foster additional skill development and ensure implementation of person-centered thinking practices throughout all levels of the Training Centers.

12. In the event that an individual or, where applicable, Authorized Representative opposes the PST's proposed options for placement in a more integrated setting after being provided the information and opportunities described in Section IV.B.9, the Commonwealth shall ensure that PSTs:

a. Identify and seek to resolve the concerns of individuals and/or their Authorized Representatives with regard to community placement;

b. Develop and implement individualized strategies to address concerns and objections to community placement; and

c. Document the steps taken to resolve the concerns of individuals and/or their Authorized Representatives and provide information about community placement.

13. All individuals in the Training Center shall be provided opportunities for engaging in community activities to the fullest extent practicable, consistent with their identified needs and preferences, even if the individual does not yet have a discharge plan for transitioning to the community.

14. The State shall ensure that information about barriers to discharge from involved providers, CSB case managers, Regional Support Teams, Community Integration Managers, and individuals' ISPs is collected from the Training Centers and is aggregated and analyzed for ongoing quality improvement, discharge planning, and development of community-based services.

15. In the event that a PST makes a recommendation to maintain placement at a Training Center or to place an individual in a nursing home or congregate setting with five or more individuals, the decision shall be documented, and the PST shall identify the barriers to placement in a more integrated setting and describe in the discharge plan the steps the team will take to address the barriers. The case shall be referred to the Community Integration Manager and Regional Support Team in accordance with Sections IV.D.2.a and f and IV.D.3 below, and such placements shall only occur as permitted by Section IV.C.6.

C. Transition to Community Setting

1. Once a specific provider is selected by an individual, the Commonwealth shall invite and encourage the provider to actively participate in the transition of the individual from the Training Center to the community placement.

2. Once trial visits are completed, the individual has selected a provider, and the provider agrees to serve the individual, discharge will occur within 6 weeks, absent conditions beyond the Commonwealth's control. If discharge does not occur within 6 weeks, the reasons it did not occur will be documented and a new time frame for discharge will be developed by the PST. Where discharge does not occur within 3 months of selecting a provider, the PST shall identify the barriers to discharge and notify the Facility Director and Community Integration Manager in accordance with Section IV.D.2 below, and the case shall be referred to the Regional Support Teams in accordance with Section IV.D.3 below.

3. The Commonwealth shall develop and implement a system to follow up with individuals after discharge from the Training Centers to identify gaps in care and address proactively any such gaps to reduce the risk of re-admission, crises, or other negative outcomes. The Post Move Monitor, in coordination with the CSB, will conduct post-move monitoring visits within each of three (3) intervals (30, 60, and 90 days) following an individual's movement to the community setting. Documentation of the monitoring visit will be made using the Post Move Monitoring Checklist. The Commonwealth shall ensure those conducting Post Move Monitoring are adequately trained and a reasonable sample of look-behind Post Move Monitoring is completed to validate the reliability of the Post Move Monitoring process.

4. The Commonwealth shall ensure that each individual transitioning from a Training Center shall have a current discharge plan, updated within 30 days prior to the individual's discharge.

5. The Commonwealth shall ensure that the PST will identify all needed supports, protections, and services to ensure successful transition in the new living environment, including what is most important to the individual as it relates to community placement. The Commonwealth, in consultation with the PST, will determine the essential supports needed for successful and optimal community placement. The Commonwealth shall ensure that essential supports are in place at the individual's community placement prior to the individual's discharge from the Training Center. This determination will be documented. The absence of those services and supports identified as non-essential by the Commonwealth, in consultation with the PST, shall not be a barrier to transition.

6. No individual shall be transferred from a Training Center to a nursing home or congregate setting with five or more individuals unless placement in such a facility is in accordance with the individual's informed choice after receiving options for community placements, services, and supports and is reviewed by the Community Integration Manager to ensure such placement is consistent with the individual's informed choice.

7. The Commonwealth shall develop and implement quality assurance processes to ensure that discharge plans are developed and implemented, in a documented manner, consistent with the terms of this Agreement. These quality assurance processes shall be sufficient to show whether the objectives of this Agreement are being achieved. Whenever problems are identified, the Commonwealth shall develop and implement plans to remedy the problems.

D. Community Integration Managers and Regional Support Teams

1. The Commonwealth will create Community Integration Manager ("CIM") positions at each operating Training Center. The CIMs will be DBHDS Central Office staff members who will be physically located at each of the operating Training Centers. The CIMs will facilitate communication and planning with individuals residing in the Training Centers, their families, the PST, and private providers about all aspects of an individual's transition, and will address identified barriers to discharge. The CIMs will have professional experience working in the field of developmental disabilities, and an understanding of best practices for providing community services to individuals with developmental disabilities. The CIMs will have expertise in the areas of working with clinical and programmatic staff, facilitating large, diverse groups of professionals, and providing service coordination across organizational boundaries. The CIMs will serve as the primary connection between the Training Center and DBHDS Central Office. The CIMs will provide oversight, guidance, and technical assistance to the PSTs by identifying strategies for addressing or overcoming barriers to discharge, ensuring that PSTs follow the process described in

Sections IV.B and C above, and identifying and developing corrective actions, including the need for any additional training or involvement of supervisory staff.

2. CIMs shall be engaged in addressing barriers to discharge, including in all of the following circumstances:

   a. The PST recommends that an individual be transferred from a Training Center to a nursing home or congregate setting with five or more individuals;

   b. The PST is having difficulty identifying or locating a particular type of community placement, services and supports for an individual within 90 days of development of a discharge plan during the first year of the Agreement; within 60 days of development of a discharge plan during the second year of the Agreement; within 45 days of development of a discharge plan in the third year of the Agreement; and within 30 days of development of a discharge plan thereafter.

   c. The PST cannot agree on a discharge plan outcome within 15 days of the annual PST meeting, or within 30 days after the admission to the Training Center.

   d. The individual or his or her Authorized Representative opposes discharge after all the requirements described in Section IV.B.9 have been satisfied or refuses to participate in the discharge planning process;

   e. The individual is not discharged within three months of selecting a provider, as described in Section IV.C.2 above. The PST shall identify the barriers to discharge and notify both the facility director and the CIM; or

   f. The PST recommends that an individual remain in a Training Center. If the individual remains at the Training Center, an assessment by the PST and the CIM will be performed at 90-day intervals from the decision for the individual to remain at the Training Center, to ensure that the individual is in the most integrated setting appropriate to his or her needs.

3. The Commonwealth will create five Regional Support Teams, each coordinated by the CIM. The Regional Support Teams shall be composed of professionals with expertise in serving individuals with developmental disabilities in the community, including individuals with complex behavioral and medical needs. Upon referral to it, the Regional Support Team shall work with the PST and CIM to review the case and resolve identified barriers. The Regional Support Team shall have the authority to recommend additional steps by the PST and/or CIM. The CIM may consult at any time with the Regional Support Teams and will refer cases to the Regional Support Teams when:

a. The CIM is unable, within 2 weeks of the PST's referral to the CIM, to document attainable steps that will be taken to resolve any barriers to community placement enumerated in Section IV.D.2 above.

b. A PST continues to recommend placement in a Training Center at the second quarterly review following the PST's recommendation that an individual remain in a Training Center (Section IV.D.2.f), and at all subsequent quarterly reviews that maintain the same recommendation. This paragraph shall not take effect until two years after the effective date of this Agreement.

c. The CIM believes external review is needed to identify additional steps that can be taken to remove barriers to discharge.

4. The CIM shall provide monthly reports to DBHDS Central Office regarding the types of placements to which individuals have been placed, including recommendations that individuals remain at a Training Center.

V. Quality and Risk Management System

A. To ensure that all services for individuals receiving services under this Agreement are of good quality, meet individuals' needs, and help individuals achieve positive outcomes, including avoidance of harms, stable community living, and increased integration, independence, and self-determination in all life domains (e.g., community living, employment, education, recreation, healthcare, and relationships), and to ensure that appropriate services are available and accessible for individuals in the target population, the Commonwealth shall develop and implement a quality and risk management system that is consistent with the terms of this Section.

B. The Commonwealth's Quality Management System shall: identify and address risks of harm; ensure the sufficiency, accessibility, and quality of services to meet individuals' needs in integrated settings; and collect and evaluate data to identify and respond to trends to ensure continuous quality improvement.

C. Risk Management

1. The Commonwealth shall require that all Training Centers, CSBs, and other community providers of residential and day services implement risk management processes, including establishment of uniform risk triggers and thresholds, that enable them to adequately address harms and risks of harm. Harm includes any physical injury, whether caused by abuse, neglect, or accidental causes.

2. The Commonwealth shall have and implement a real time, web-based incident reporting system and reporting protocol. The protocol shall require that any staff of a Training Center, CSB, or community provider aware of any suspected or alleged incident of abuse or neglect as defined by Virginia Code § 37.2-100 in effect on the effective date of this Agreement, serious injury as defined by 12 VAC 35-115-30 in effect on the effective date of this Agreement, or deaths directly report such

information to the DBHDS Assistant Commissioner for Quality Improvement or his or her designee.

3. The Commonwealth shall have and implement a process to investigate reports of suspected or alleged abuse, neglect, critical incidents, or deaths and identify remediation steps taken. The Commonwealth shall be required to implement the process for investigation and remediation detailed in the Virginia DBHDS Licensing Regulations (12 VAC 35-105-160 and 12 VAC 35-105-170 in effect on the effective date of this Agreement) and the Virginia Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services ("DBHDS Human Rights Regulations" (12 VAC 35-115-50(D)(3)) in effect on the effective date of this Agreement, and shall verify the implementation of corrective action plans required under these Rules and Regulations.

4. The Commonwealth shall offer guidance and training to providers on proactively identifying and addressing risks of harm, conducting root cause analysis, and developing and monitoring corrective actions.

5. The Commonwealth shall conduct monthly mortality reviews for unexplained or unexpected deaths reported through its incident reporting system. The Commissioner shall establish the monthly mortality review team, to include the DBHDS Medical Director, the Assistant Commissioner for Quality Improvement, and others as determined by the Department who possess appropriate experience, knowledge, and skills. The team shall have at least one member with the clinical experience to conduct mortality reviews who is otherwise independent of the State. Within ninety days of a death, the monthly mortality review team shall: (a) review, or document the unavailability of: (i) medical records, including physician case notes and nurses notes, and all incident reports, for the three months preceding the individual's death; (ii) the most recent individualized program plan and physical examination records; (iii) the death certificate and autopsy report; and (iv) any evidence of maltreatment related to the death; (b) interview, as warranted, any persons having information regarding the individual's care; and (c) prepare and deliver to the DBHDS Commissioner a report of deliberations, findings, and recommendations, if any. The team also shall collect and analyze mortality data to identify trends, patterns, and problems at the individual service-delivery and systemic levels and develop and implement quality improvement initiatives to reduce mortality rates to the fullest extent practicable.

6. If the Training Center, CSBs, or other community provider fails to report harms and implement corrective actions, the Commonwealth shall take appropriate action with the provider pursuant to the DBHDS Human Rights Regulations (12 VAC 35-115-240), the DBHDS Licensing Regulations (12 VAC 35-105-170), Virginia Code § 37.2-419 in effect on the effective date of this Agreement, and other requirements in this Agreement.

D. Data to Assess and Improve Quality

1. The Commonwealth's HCBS waivers shall operate in accordance with the Commonwealth's CMS-approved waiver quality improvement plan to ensure the needs of individuals enrolled in a waiver are met, that individuals have choice in all aspects of their selection of goals and supports, and that there are effective processes in place to monitor participant health and safety. The plan shall include evaluation of level of care; development and monitoring of individual service plans; assurance of qualified providers; identification, response and prevention of occurrences of abuse, neglect and exploitation; administrative oversight of all waiver functions including contracting; and financial accountability. Review of data shall occur at the local and state levels by the CSBs and DBHDS/DMAS, respectively.

2. The Commonwealth shall collect and analyze consistent, reliable data to improve the availability and accessibility of services for individuals in the target population and the quality of services offered to individuals receiving services under this Agreement. The Commonwealth shall use data to:

   a. identify trends, patterns, strengths, and problems at the individual, service-delivery, and systemic levels, including, but not limited to, quality of services, service gaps, accessibility of services, serving individuals with complex needs, and the discharge and transition planning process;

   b. develop preventative, corrective, and improvement measures to address identified problems;

   c. track the efficacy of preventative, corrective, and improvement measures; and

   d. enhance outreach, education, and training.

3. The Commonwealth shall begin collecting and analyzing reliable data about individuals receiving services under this Agreement selected from the following areas in State Fiscal Year 2012 and will ensure reliable data is collected and analyzed from each of these areas by June 30, 2014. Multiple types of sources (e.g., providers, case managers, licensing, risk management, Quality Service Reviews) can provide data in each area, though any individual type of source need not provide data in every area:

   a. Safety and freedom from harm (e.g., neglect and abuse, injuries, use of seclusion or restraints, deaths, effectiveness of corrective actions, licensing violations);

   b. Physical, mental, and behavioral health and well being (e.g., access to medical care (including preventative care), timeliness and adequacy of interventions (particularly in response to changes in status));

   c. Avoiding crises (e.g., use of crisis services, admissions to emergency rooms or hospitals, admissions to Training Centers or other congregate settings, contact with criminal justice system);

d. Stability (e.g., maintenance of chosen living arrangement, change in providers, work/other day program stability);

e. Choice and self-determination (e.g., service plans developed through person-centered planning process, choice of services and providers, individualized goals, self-direction of services);

f. Community inclusion (e.g., community activities, integrated work opportunities, integrated living options, educational opportunities, relationships with non-paid individuals);

g. Access to services (e.g., waitlists, outreach efforts, identified barriers, service gaps and delays, adaptive equipment, transportation, availability of services geographically, cultural and linguistic competency); and

h. Provider capacity (e.g., caseloads, training, staff turnover, provider competency).

4. The Commonwealth shall collect and analyze data from available sources, including, the risk management system described in Section V.C. above, those sources described in Sections V.E-G and I below (e.g., providers, case managers, Quality Service Reviews, and licensing), Quality Management Reviews, the crisis system, service and discharge plans from the Training Centers, service plans for individuals receiving waiver services, Regional Support Teams, and CIMs.

5. The Commonwealth shall implement Regional Quality Councils that shall be responsible for assessing relevant data, identifying trends, and recommending responsive actions in their respective Regions of the Commonwealth.

   a. The councils shall include individuals experienced in data analysis, residential and other providers, CSBs, individuals receiving services, and families, and may include other relevant stakeholders.

   b. Each council shall meet on a quarterly basis to share regional data, trends, and monitoring efforts and plan and recommend regional quality improvement initiatives. The work of the Regional Quality Councils shall be directed by a DBHDS quality improvement committee.

6. At least annually, the Commonwealth shall report publicly, through new or existing mechanisms, on the availability (including the number of people served in each type of service described in this Agreement) and quality of supports and services in the community and gaps in services, and shall make recommendations for improvement.

E. Providers

1. The Commonwealth shall require all providers (including Training Centers, CSBs, and other community providers) to develop and implement a quality improvement ("QI") program, including root cause analyses, that is sufficient to identify and address significant service issues and is consistent with the requirements of the

DBHDS Licensing Regulations at 12 VAC 35-105-620 in effect on the effective date of this Agreement and the provisions of this Agreement.

2. Within 12 months of the effective date of this Agreement, the Commonwealth shall develop measures that CSBs and other community providers are required to report to DBHDS on a regular basis, either through their risk management/critical incident reporting requirements or through their QI program. Reported key indicators shall capture information regarding both positive and negative outcomes for both health and safety and community integration, and will be selected from the relevant domains listed in Section V.D.3. above. The measures will be monitored and reviewed by the DBHDS quality improvement committee, with input from Regional Quality Councils, described in Section V.D.5 above. The DBHDS quality improvement committee will assess the validity of each measure at least annually and update measures accordingly.

3. The Commonwealth shall use Quality Service Reviews and other mechanisms to assess the adequacy of providers' quality improvement strategies and shall provide technical assistance and other oversight to providers whose quality improvement strategies the Commonwealth determines to be inadequate.

F. Case Management

1. For individuals receiving case management services pursuant to this Agreement, the individual's case manager shall meet with the individual face-to-face on a regular basis and shall conduct regular visits to the individual's residence, as dictated by the individual's needs.

2. At these face-to-face meetings, the case manager shall: observe the individual and the individual's environment to assess for previously unidentified risks, injuries, needs, or other changes in status; assess the status of previously identified risks, injuries, needs, or other change in status; assess whether the individual's support plan is being implemented appropriately and remains appropriate for the individual; and ascertain whether supports and services are being implemented consistent with the individual's strengths and preferences and in the most integrated setting appropriate to the individual's needs. If any of these observations or assessments identifies an unidentified or inadequately addressed risk, injury, need, or change in status; a deficiency in the individual's support plan or its implementation; or a discrepancy between the implementation of supports and services and the individual's strengths and preferences, then the case manager shall report and document the issue, convene the individual's service planning team to address it, and document its resolution.

3. Within 12 months of the effective date of this Agreement, the individual's case manager shall meet with the individual face-to-face at least every 30 days, and at least one such visit every two months must be in the individual's place of residence, for any individuals who:

   a. Receive services from providers having conditional or provisional licenses;

b. Have more intensive behavioral or medical needs as defined by the Supports Intensity Scale ("SIS") category representing the highest level of risk to individuals;

c. Have an interruption of service greater than 30 days;

d. Encounter the crisis system for a serious crisis or for multiple less serious crises within a three-month period;

e. Have transitioned from a Training Center within the previous 12 months; or

f. Reside in congregate settings of 5 or more individuals.

4. Within 12 months from the effective date of this Agreement, the Commonwealth shall establish a mechanism to collect reliable data from the case managers on the number, type, and frequency of case manager contacts with the individual.

5. Within 24 months from the date of this Agreement, key indicators from the case manager's face to face visits with the individual, and the case manager's observations and assessments, shall be reported to the Commonwealth for its review and assessment of data. Reported key indicators shall capture information regarding both positive and negative outcomes for both health and safety and community integration, and will be selected from the relevant domains listed in Section V.D.3 above.

6. The Commonwealth shall develop a statewide core competency-based training curriculum for case managers within 12 months of the effective date of this Agreement. This training shall be built on the principles of self-determination and person-centeredness.

G. Licensing

1. The Commonwealth shall conduct regular, unannounced licensing inspections of community providers serving individuals receiving services under this Agreement.

2. Within 12 months of the effective date of this Agreement, the Commonwealth shall have and implement a process to conduct more frequent licensure inspections of community providers serving individuals under this Agreement, including:

a. Providers who have a conditional or provisional license;

b. Providers who serve individuals with intensive medical and behavioral needs as defined by the SIS category representing the highest level of risk to individuals;

c. Providers who serve individuals who have an interruption of service greater than 30 days;

d. Providers who serve individuals who encounter the crisis system for a serious crisis or for multiple less serious crises within a three-month period;

e. Providers who serve individuals who have transitioned from a Training Center within the previous 12 months; and

f. Providers who serve individuals in congregate settings of 5 or more individuals.

3. Within 12 months of the effective date of this Agreement, the Commonwealth shall ensure that the licensure process assesses the adequacy of the individualized supports and services provided to persons receiving services under this Agreement in each of the domains listed in Section V.D.3 above and that these data and assessments are reported to DBHDS.

H. Training

1. The Commonwealth shall have a statewide core competency-based training curriculum for all staff who provide services under this Agreement. The training shall include person-centered practices, community integration and self-determination awareness, and required elements of service training.

2. The Commonwealth shall ensure that the statewide training program includes adequate coaching and supervision of staff trainees. Coaches and supervisors must have demonstrated competency in providing the service they are coaching and supervising.

I. Quality Service Reviews

1. The Commonwealth shall use Quality Service Reviews ("QSRs") to evaluate the quality of services at an individual, provider, and system-wide level and the extent to which services are provided in the most integrated setting appropriate to individuals' needs and choice. QSRs shall collect information through:

   a. Face-to-face interviews of the individual, relevant professional staff, and other people involved in the individual's life; and

   b. Assessment, informed by face-to-face interviews, of treatment records, incident/injury data, key-indicator performance data, compliance with the service requirements of this Agreement, and the contractual compliance of community services boards and/or community providers.

2. QSRs shall evaluate whether individuals' needs are being identified and met through person-centered planning and thinking (including building on individuals' strengths, preferences, and goals), whether services are being provided in the most integrated setting appropriate to the individuals' needs and consistent with their informed choice, and whether individuals are having opportunities for integration in all aspects of their lives (e.g., living arrangements, work and other day activities, access to community services and activities, and opportunities for relationships with non-paid individuals). Information from the QSRs shall be used to improve practice and the quality of services on the provider, CSB, and system wide levels.

3. The Commonwealth shall ensure those conducting QSRs are adequately trained and a reasonable sample of look-behind QSRs are completed to validate the reliability of the QSR process.

4. The Commonwealth shall conduct QSRs annually of a statistically significant sample of individuals receiving services under this Agreement.

VI. Independent Reviewer

A. The Parties have jointly selected Donald J. Fletcher as the Independent Reviewer for this Settlement Agreement. In the event that the Independent Reviewer resigns or the Parties agree to replace the Independent Reviewer, the Parties will select a replacement. If the Parties are unable to agree on a replacement within 30 days from the date the Parties receive a notice of resignation from the Independent Reviewer, or from the date the Parties agree to replace the Independent Reviewer, they shall each submit the names of up to three candidates to the Court, and the Court shall select the replacement from the names submitted.

B. The Independent Reviewer shall conduct the factual investigation and verification of data and documentation necessary to determine whether the Commonwealth is in compliance with this Settlement Agreement, on a six-month cycle continuing during the pendency of the Agreement. The Independent Reviewer is not an agent of the Court, nor does the Independent Reviewer have any authority to act on behalf of the Court. The Independent Reviewer may hire staff and consultants, in consultation with and subject to reasonable objections by the Parties, to assist in his compliance investigations. The Independent Reviewer and any hired staff or consultants are neither agents nor business associates of the Commonwealth or DOJ.

C. The Independent Reviewer shall file with the Court a written report on the Commonwealth's compliance with the terms of this Agreement within 60 days of the close of each review cycle. The first report shall be filed nine months from the effective date of this Agreement. With the consent of the Court, the Court will hold a status conference after the filing of each written report. The Independent Reviewer shall provide the Parties a draft of his/her report at least 21 days before issuing the report. The Parties shall have 14 days to review and comment on the proposed report before it is filed with the Court. The Parties may agree to allow the Independent Reviewer an additional 20 days to finalize a report after he/she receives comments from the Parties, and such an agreement does not require Court approval. In preparing the report, the Independent Reviewer shall use appendixes or other methods to protect confidential information so that the report itself may be filed with the Court as a public document. Either Party may file a written report with the Court noting its objections to the portions of the Independent Reviewer's report with which it disagrees. The Commonwealth shall publish and maintain these reports on the DBHDS website.

D. Upon receipt of notification, the Commonwealth shall immediately report to the Independent Reviewer the death or serious injury resulting in ongoing medical care of any former resident of a Training Center. The Independent Reviewer shall forthwith review any such death or injury and report his findings to the Court in a special report, to be filed under seal with copies to the Parties. The Parties shall seek a protective order permitting these reports to be shared with Intervenors' counsel and upon entry of such order, shall promptly send copies of the reports to Intervenors' counsel.

E. The Independent Reviewer, and any hired staff or consultants, may:

1. Have ex parte communications with the Court upon the Court's request or with the consent of the Parties.

2. Have ex parte communications with the Parties at any time.

3. Request meetings with the Parties and the Court.

4. Speak with stakeholders with such stakeholders' consent, on a confidential basis or otherwise, at the Independent Reviewer's discretion.

5. Testify in this case regarding any matter relating to the implementation or terms of this Agreement, including the Independent Reviewer's observations and findings.

6. Offer to provide the Commonwealth with technical assistance and, with the Commonwealth's consent, provide such technical assistance, relating to any aspect of this Agreement or its stated purposes.

7. Conduct regular meetings with both Parties. The purpose of these meetings shall include, among other things, to prioritize areas for the Independent Reviewer to review, schedule visits, discuss areas of concern, and discuss areas in which technical assistance may be appropriate.

F. The Independent Reviewer and any hired staff or consultants shall not be liable for any claim, lawsuit, or demand arising out of their duties under this Agreement. This paragraph does not apply to any proceeding before this Court for enforcement of payment of contracts or subcontracts for reviewing compliance with this Agreement.

G. The Independent Reviewer and any hired staff or consultants shall not be subject to formal discovery, including, but not limited to, deposition(s), request(s) for documents, request(s) for admissions, interrogatories, or other disclosures. The Parties are not entitled to access the Independent Reviewer's records or communications, or those of his/her staff and consultants, although the Independent Reviewer may provide copies of records or communications at the Independent Reviewer's discretion. The Court may review all records of the Independent Reviewer at the Court's discretion.

H. In order to determine compliance with this Agreement, the Independent Reviewer and any hired staff or consultants shall have full access to persons, employees, residences, facilities, buildings, programs, services, documents, records, including individuals' medical and other records, in unredacted form, and materials that are necessary to assess the Commonwealth's compliance with this Agreement, to the extent they are within the State's custody or control. This shall include, but not be limited to, access to the data and records maintained by the Commonwealth pursuant to Section V above. The provision of any information to the Independent Reviewer pursuant to this Agreement shall not constitute a waiver of any privilege that would otherwise protect the information from disclosure to third parties. The Independent Reviewer and any hired staff or consultants may also interview individuals receiving services under this Agreement with the consent of the individual or his/her Authorized Representative. Access to CSBs and private

providers and entities shall be at the sole discretion of the CSB or private provider or entity; however, the Commonwealth shall encourage CSBs and private providers and other entities to provide such access and shall assist the Independent Reviewer in identifying and contacting them. The Independent Reviewer shall exercise his/her access to Commonwealth employees and individuals receiving services under this Agreement in a manner that is reasonable and not unduly burdensome to the operation of Commonwealth agencies and that has minimal impact on programs or services being provided to individuals receiving services under this Agreement. Such access shall continue until the Agreement is terminated. The Parties agree that, in cases of an emergency situation that present an immediate threat to life, health, or safety of individuals, the Independent Reviewer will not be required to provide the Commonwealth notice of such visit or inspection. Any individually identifying health information that the Independent Reviewer and any hired staff or consultants receive or maintain shall be kept confidential.

I. Budget of the Independent Reviewer

1. Within 45 days of appointment, the Independent Reviewer shall submit to the Court for the Court's approval a proposed budget for State Fiscal Year 2013. Using the proposed budget for State Fiscal Year 2013, the Independent Reviewer shall also propose an equivalent amount prorated through the remainder of State Fiscal Year 2012 as the budget for State Fiscal Year 2012.

2. The Independent Reviewer shall provide the Parties a draft of the proposed budget at least 30 days in advance of submission to the Court. The Parties shall raise with the Independent Reviewer any objections they may have to the draft of the proposed budget within 10 business days of its receipt. If the objection is not resolved before the Independent Reviewer's submission of a proposed budget to the Court, a Party may file the objection with the Court within 10 business days of the submission of the proposed budget to the Court. The Court shall consider such objections and make any adjustments it deems appropriate prior to approving the budget.

3. Thereafter, the Independent Reviewer shall submit annually a proposed budget to the Court for its approval by April 1 in accordance with the process set forth above.

4. At any time, the Independent Reviewer may submit to the Parties for approval a proposed revision to the budget, along with any explanation of the reason for the proposed revision. Should the Parties and Independent Reviewer not be able to agree on the proposed revision, the Court will be notified as set forth in Section V.H.2 above.

5. The approved budget of the Independent Reviewer shall not exceed $300,000 in any State Fiscal Year during the pendency of this Agreement, inclusive of any costs and expenses of hired staff and consultants, without the approval of the Commonwealth or the Court pursuant to Sections V.H.2. or H.4. above.

J. Reimbursement and Payment Provisions

1. The cost of the Independent Reviewer, including the cost of any consultants and staff to the Reviewer, shall be borne by the Commonwealth in this action up to the amount of the approved budget for each State Fiscal Year. All reasonable expenses incurred by the Independent Reviewer in the course of the performance of his/her duties as set forth in this Agreement shall be reimbursed by the Commonwealth. In no event will the Commonwealth reimburse the Independent Reviewer for any expense that exceeds the approved fiscal year budget or the amount approved under Sections V.H.4 or H.5 above. The Court retains the authority to resolve any dispute that may arise regarding the reasonableness of fees and costs charged by the Reviewer. The United States shall bear its own expenses in this matter. If a dispute arises regarding reasonableness of fees or costs, the Independent Reviewer shall provide an accounting justifying the fees or costs.

2. The Independent Reviewer shall submit monthly statements to DBHDS, with copies to the United States and the Court, detailing all expenses the Independent Reviewer incurred during the prior month. DBHDS shall issue payment in accordance with the monthly statement as long as such payment is within the approved State Fiscal Year budget. Such payment shall be made by DBHDS within 10 business days of receipt of the monthly statement. Monthly statements shall be provided to: Assistant Commissioner for Developmental Services, DBHDS, P.O. Box 1797, Richmond, Virginia 23238-1797.

3. In the event that, upon a request by the United States or the Independent Reviewer, the Court determines that the Commonwealth is unreasonably withholding or delaying payment, or if the Parties agree to use the following payment procedure, the following payment procedure will be used:

   a. The Commonwealth shall deposit $100,000.00 into the Registry of the Court as interim payment of costs incurred by the Independent Reviewer. This deposit and all other deposits pursuant to this Order shall be held in the Court Registry Investment System and shall be subject to the standard registry fee imposed on depositors.

   b. The Court shall order the clerk to make payments to the Independent Reviewer. The clerk shall make those payments within 10 days of the entry of the Order directing payment. Within 45 days of the entry of each Order directing payment, the Commonwealth shall replenish the fund with the full amount paid by the clerk in order to restore the fund's total to $100,000.00.

K. The Independent Reviewer, including any hired staff or consultants, shall not enter into any contract with the Commonwealth while serving as the Independent Reviewer. If the Independent Reviewer resigns from his/her position as Independent Reviewer, he/she may not enter into any contract with the Commonwealth on a matter related to this Agreement during the pendency of this Agreement without the written consent of the United States.

L. Other than the semi-annual compliance report pursuant to Section VI.C above or proceedings before the Court, the Independent Reviewer, and any hired staff or consultants, shall refrain from any public oral or written statements to the media, including statements "on background," regarding this Agreement, its implementation, or the Commonwealth's compliance. In addition, the Independent Reviewer shall not establish or maintain a website regarding this Agreement, its implementation, or the Commonwealth's compliance.

VII. Construction and Termination

A. The Parties agree jointly to file this Agreement with the United States District Court for the Eastern District of Virginia, Richmond Division.

B. The Parties anticipate that the Commonwealth will have complied with all provisions of the Agreement by the end of State Fiscal Year 2021. Compliance is achieved where any violations of the Agreement are minor or incidental and are not systemic. The Court shall retain jurisdiction of this action for all purposes until the end of State Fiscal Year 2021 unless:

1. The Parties jointly ask the Court to terminate the Agreement before the end of State Fiscal Year 2021, provided the Commonwealth has complied with this Agreement and maintained compliance for one year; or

2. The United States disputes that the Commonwealth is in compliance with the Agreement at the end of State Fiscal Year 2021. The United States shall inform the Court and the Commonwealth by January 1, 2021, that it disputes compliance, and the Court may schedule further proceedings as appropriate. The Party that disagrees with the Independent Reviewer's assessment of compliance shall bear the burden of proof.

C. The burden shall be on the Commonwealth to demonstrate compliance to the United States pursuant to Section VII.B.1 above. If the Commonwealth believes it has achieved compliance with a portion of this Agreement and has maintained compliance for one year, it shall notify the United States and the Independent Reviewer. If the United States agrees, the Commonwealth shall be relieved of that portion of the Settlement Agreement and notice of such relief shall be filed with the Court. The Parties may instead agree to a more limited review of the relevant portion of the Agreement.

D. With the exception of conditions or practices that pose an immediate and serious threat to the life, health, or safety of individuals receiving services under this Agreement, if the United States believes that the Commonwealth has failed to fulfill any obligation under this Agreement, the United States shall, prior to initiating any court proceeding to remedy such failure, give written notice to the Commonwealth which, with specificity, sets forth the details of the alleged noncompliance.

1. With the exception of conditions or practices that pose an immediate and serious threat to the life, health, or safety of individuals covered by this Agreement, the Commonwealth shall have forty-five (45) days from the date of such written notice to respond to the United States in writing by denying that noncompliance has occurred,

or by accepting (without necessarily admitting) the allegation of noncompliance and proposing steps that the Commonwealth will take, and by when, to cure the alleged noncompliance.

2. If the Commonwealth fails to respond within 45 days or denies that noncompliance has occurred, the United States may seek an appropriate judicial remedy.

3. If the Commonwealth timely responds by proposing curative action by a specified deadline, the United States may accept the Commonwealth's proposal or offer a counterproposal for a different curative action or deadline, but in no event shall the United States seek an appropriate judicial remedy for the alleged noncompliance until after the time provided for the Commonwealth to respond under Section VII.D.2 above. If the Parties fail to reach agreement on a plan for curative action, the United States may seek an appropriate judicial remedy.

4. Notwithstanding the provisions of this Section, with the exception of conditions that pose an immediate and serious threat to the life, health, or safety of individuals receiving services under this Agreement, the United States shall neither issue a noncompliance notice nor seek judicial remedy for the nine months after the effective date of this Agreement.

E. If the United States believes that conditions or practices within the control of the Commonwealth pose an immediate and serious threat to the life, health, or safety of individuals in the Training Centers or individuals receiving services pursuant to this Agreement, the United States may, without further notice, initiate a court proceeding to remedy those conditions or practices.

F. This Agreement shall constitute the entire integrated Agreement of the Parties.

G. Any modification of this Agreement shall be executed in writing by the Parties, shall be filed with the Court, and shall not be effective until the Court enters the modified agreement and retains jurisdiction to enforce it.

H. The Agreement shall be applicable to, and binding upon, all Parties, their employees, assigns, agents, and contractors charged with implementation of any portion of this Agreement, and their successors in office. If the Commonwealth contracts with an outside provider for any of the services provided in this Agreement, the Agreement shall be binding on any contracted parties, including agents and assigns. The Commonwealth shall ensure that all appropriate Commonwealth agencies take any actions necessary for the Commonwealth to comply with provisions of this Agreement.

I. The Commonwealth, while empowered to enter into and implement this Agreement, does not speak for the Virginia General Assembly, which has the authority under the Virginia Constitution and laws to appropriate funds for, and amend laws pertaining to, the Commonwealth's system of services for individuals with developmental disabilities. The Commonwealth shall take all appropriate measures to seek and secure funding necessary to implement the terms of this Agreement. If the Commonwealth fails to attain necessary appropriations to comply with this Agreement, the United States retains all rights to enforce the terms of this Agreement, to enter into enforcement proceedings, or to

withdraw its consent to this Agreement and revive any claims otherwise barred by operation of this Agreement.

J. The United States and the Commonwealth shall bear the cost of their fees and expenses incurred in connection with this case.

VIII. General Provisions

A. The Commonwealth agrees that it shall not retaliate against any person because that person has filed or may file a complaint, provided assistance or information, or participated in any other manner in the United States' investigation or the Independent Reviewer's duties related to this Agreement. The Commonwealth agrees that it shall timely and thoroughly investigate any allegations of retaliation in violation of this Agreement and take any necessary corrective actions identified through such investigations.

B. If an unforeseen circumstance occurs that causes a failure to timely fulfill any requirement of this Agreement, the Commonwealth shall notify the United States and the Independent Reviewer in writing within 20 calendar days after the Commonwealth becomes aware of the unforeseen circumstance and its impact on the Commonwealth's ability to perform under the Agreement. The notice shall describe the cause of the failure to perform and the measures taken to prevent or minimize the failure. The Commonwealth shall take reasonable measures to avoid or minimize any such failure.

C. Failure by any Party to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver, including of its right to enforce other deadlines and provisions of this Agreement.

D. The Parties shall promptly notify each other of any court or administrative challenge to this Agreement or any portion thereof, and shall defend against any challenge to the Agreement.

E. Except as provided in this Agreement, during the pendency of the Agreement, the United States shall not file suit under the ADA or CRIPA for any claim or allegation set forth in the complaint.

F. The Parties represent and acknowledge this Agreement is the result of extensive, thorough and good faith negotiations. The Parties further represent and acknowledge that the terms of this Agreement have been voluntarily accepted, after consultation with counsel, for the purpose of making a full and final compromise and settlement of any and all claims arising out of the allegations set forth in the Complaint and pleadings in this Action, and for the express purpose of precluding any further or additional claims arising out of the allegations set forth in the Complaint and pleadings in this Action. Each Party to this Agreement represents and warrants that the person who has signed this Agreement on behalf of his or her entity is duly authorized to enter into this Agreement and to bind that Party to the terms and conditions of this Agreement.

G. Nothing in this Agreement shall be construed as an acknowledgement, an admission, or evidence of liability of the Commonwealth under federal or state law, and this Agreement

shall not be used as evidence of liability in this or any other civil or criminal proceeding.

H. This Agreement may be executed in counterparts, each of which shall be deemed an original, and the counterparts shall together constitute one and the same agreement, notwithstanding that each Party is not a signatory to the original or the same counterpart.

I. "Notice" under this Agreement shall be provided to the following or their successors:

For the United States:

Chief of the Special Litigation Section
United States Department of Justice
Civil Rights Division
601 D Street, N.W.
Washington, D.C. 20004

For the Commonwealth:

Attorney General of Virginia
900 E. Main Street
Richmond, VA 23219

Counsel to the Governor
Patrick Henry Building, 3rd Floor
1111 E. Broad Street
Richmond, VA 23219

For the Independent Reviewer:

Donald J. Fletcher
P.O. Box 54
16 Cornwell Road
Shutesbury, MA 01072-0054

IX. Implementation of the Agreement

A. The implementation of this Agreement shall begin immediately upon the Effective Date, which shall be the date on which this Agreement is approved and entered as an order of the Court.

B. Within one month from the Effective Date of this Agreement, the Commonwealth shall appoint an Agreement Coordinator to oversee compliance with this Agreement and to serve as a point of contact for the Independent Reviewer.

C. The Commonwealth shall maintain sufficient records to document that the requirements of this Agreement are being properly implemented and shall make such records available to the Independent Reviewer for inspection and copying upon request and on a reasonable basis.

D. The Commonwealth shall notify the Independent Reviewer and the United States

promptly upon the unexplained or unexpected death or serious physical injury resulting in on-going medical care of any individual covered by this Agreement. The Commonwealth shall, via email, forward to the United States and the Independent Reviewer 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. The provision of any information to the Independent Reviewer and the United States pursuant to this Agreement shall not constitute a waiver of any privilege that would otherwise protect the information from disclosure to third parties.

E. The United States shall have full access to persons, employees, residences, facilities, buildings, programs, services, documents, records, and materials that are within the control and custody of the Commonwealth and are necessary to assess the Commonwealth's compliance with this Agreement and/or implementation efforts.

1. Such access shall include departmental and/or individual medical and other records in unredacted form.

2. The United States shall provide notice at least one week in advance of any visit or inspection.

3. The Parties agree that, in cases of an emergency situation that presents an immediate threat to life, health, or safety of individuals, the United States will be required to provide the Commonwealth with sufficient notice of such visit or inspection as to permit a Commonwealth representative to join the visit.

4. Such access shall continue until this case is dismissed.

5. The Commonwealth shall provide to the United States, as requested, in unredacted form, any documents, records, databases, and information relating to the implementation of this Agreement as soon as practicable, but no later than within thirty (30) business days of the request, or within a time frame negotiated by the Parties if the volume of requested material is too great to reasonably produce within thirty days.

6. The provision of any information to the United States pursuant to this Agreement shall not constitute a waiver of any privilege that would otherwise protect the information from disclosure to third parties.

FOR THE UNITED STATES:

NEIL H. MacBRIDE
United States Attorney
Eastern District of Virginia

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United States Attorney's Office
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Telephone: (804) 819-5400
Facsimile: (804) 819-7417
Email: Robert.McIntosh@usdoj.gov

Respectfully submitted,

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Civil Rights Division

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Civil Rights Division

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Special Counsel for Olmstead Enforcement
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FOR THE COMMONWEALTH:

7/17/12

WILLIAM A. HAZEL, JR., M.D.
Secretary of Health and Human Resources
on Behalf of Governor Robert F. McDonnell

7/17/12

KENNETH T. CUCCINELLI, II
as Attorney General of Virginia pursuant to Virginia Code § 2.2-514

7/17/12

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ENTERED THIS 23 day of August, 2012.

UNITED STATES DISTRICT JUDGE

Appendix B:

DBHDS Strategic Plan for Employment First

DBHDS

Virginia Department of
Behavioral Health and
Developmental Services

STRATEGIC PLAN FOR EMPLOYMENT FIRST:
EXPANDING EMPLOYMENT OPPORTUNITIES

October 2012

This document outlines the Department of Behavioral Health and Developmental Services' (DBHDS or 'the department') Strategic Plan for Employment First. The strategic plan was formulated in response to efforts in recent years to build and expand integrated employment opportunities for individuals with disabilities in Virginia. DBHDS supports individuals with serious mental illness, substance use disorders, and intellectual and other developmental disabilities. The strategic plan establishes annual goals for DBHDS to collaborate with other state agencies and organizations to expand opportunities for employment for all Virginians with disabilities.

Background

The DBHDS Strategic Plan for Employment First is based on a series of previous studies and collaborations addressing integrated employment in Virginia. For many years DBHDS has recognized the importance of delivering employment services in integrated settings. DBHDS has a long-standing interest in supported employment and is actively developing policies and practices that better promote employment outcomes for a broader range of individuals with disabilities. Over the past few years, the department has undertaken efforts to support individuals with disabilities in having increased access to integrated community-based employment. Definitions of integrated and other employment opportunities are outlined in Appendix A.

- **Joining and maintaining membership in SELN (State Employment Leadership Network):** In 2008, DBHDS joined the State Employment Leadership Network (SELN) sponsored by the National Association of State Directors of Developmental Disability Services and the University of Massachusetts-Boston Institute for Community Inclusion. DBHDS developed a Virginia-specific SELN Advisory Group made up of over 30 members representing a variety of organizations involved in providing employment services to Virginians. Members include community service boards (CSBs), the Department for Aging and Rehabilitative Services (DARS), the Department of Education (DOE), the Virginia Board for People with Disabilities (VBPD), the Virginia Commonwealth University Rehabilitation Research and Training Center on Workplace Supports and Job Retention (VCU/RRTC), and vendor organizations such as the Virginia Association of Community Rehabilitation Programs (vaACCSES), the Arc of Virginia, and the Virginia Association of Providers of Supported Employment (VaAPSE). DBHDS continues to be an active, contributing participant in the monthly National SELN web-based meetings. Virginia is now one of 30 states in the SELN.

- **SELN State Strategic Plan Assessment:** In 2009, the members of the Virginia SELN Advisory Group completed the *SELN State Strategic Assessment* (Appendix B). The major barriers to employment identified in this assessment were:
  1. Lack of incentives for employment service organizations to provide integrated community-based employment;
  2. Lack of standard policies across agencies regarding employment services and definitions;
  3. Need for review and revision of current regulations impacting the disincentive for people to choose integrated employment (such as the limited flexibility of the current waiver system for people to move from day services to integrated employment);
  4. Lack of funding for long term supports;

5. Need for increased education of service providers and individuals about the opportunity for community-based employment and work incentives to support moving into employment; and
6. The need for a greater coordination of employment outcome data collection across and within state agencies.

- **Creating Opportunities Plan:** In 2010, the DBHDS strategic plan, *Creating Opportunities: A Plan for Advancing Community-Focused Services in Virginia (Creating Opportunities Plan),* was developed with the help of over 200 individuals, including staff from DBHDS' central office and state hospitals and various state agencies; representatives from community services boards (CSBs)and private providers; and individuals receiving services and other stakeholders (Appendix C). The *Creating Opportunities Plan*'s strategic employment priority seeks partnerships among CSBs, the Department for Aging and Rehabilitative Services (DARS), and Employment Services Organizations (ESOs) *to "Provide training and consultation to services providers on implementing innovative supportive employment (SE) models and establishing integrated supported employment teams that include CSBs, DARS, and ESOs."*

- **Hiring an Employment Services Coordinator:** In 2011, to help move forward the employment priorities identified in the SELN Assessment and the *Creating Opportunities Plan*, DBHDS created a full-time, dedicated position for expanding and coordinating employment services in both behavioral health and developmental services. A goal for the position of the employment services coordinator, called the Community Resource Manager for Employment Services, is to develop working relationships with key personnel at the state and local agencies and private organizations providing employment services. Another responsibility for this position is to serve as the coordinator of Virginia's SELN Advisory Group. These goals have been accomplished.

- **Training Regarding Employment First Policies and Strategies:** In October 2011, DBHDS organized an Employment First Summit to begin addressing statewide training and technical assistance needs. As part of this summit, Governor McDonnell issued a Certificate of Recognition to officially promote the Employment First Initiative in Virginia. The department hosted the Second Employment First Summit in October 2012. Additionally, the DBHDS Community Resource Manager for Employment Services position set a goal of conducting Regional Employment First Summits around the state in order to present Employment First concepts and ideas to the broadest geographical audience. Over 40 such regional summits were held in the past year at CSB sites, DBHDS training centers, service provider meetings, and stakeholder meetings such as the Virginia Leadership in Intellectual and Developmental Disabilities (VALIDD) and The Advisory Council on Individuals with Intellectual & Developmental Disabilities (TACIDD).

- **Settlement Agreement with the US Department of Justice (DOJ):** In January 2012, Virginia reached a Settlement Agreement with the US Department of Justice (DOJ) to further expand and build upon its community-based system of supports and services for individuals with intellectual and other developmental disabilities. The agreement contains a section related to integrated employment opportunities and requires Virginia to establish Employment First policies and practices (Appendix D). The agreement also requires DBHDS to maintain its membership in the

SELN and establish baseline measurements regarding key employment indicators for individuals receiving services through the HCBS waivers and use targets to meaningfully increase the number of individuals who enroll and remain in supported employment.

- **Establishing a DBHDS Employment First Policy:** In 2012, at the direction of the State Board of Behavioral Health and Developmental Services ('the Board'), DBHDS developed, with advice and consultation from the SELN Advisory Group, an Employment First policy for the department and CSBs. This policy was in response to the Settlement Agreement, elements of the 2009 SELN *Assessment,* and the goals of the 2010 *Creating Opportunities Plan*. The Board will consider approval of the draft policy in early December 2012. Once the policy is approved by the Board, DBHDS will include a provision in the CSB Performance Contract requiring adherence to it.

DBHDS Strategic Plan for Employment First

These past efforts of identifying barriers to employment, establishing goals to improve employment outcomes, training and technical assistance, and development of an Employment First policy were used to formulate this Strategic Plan for Employment First. The Plan was developed in 2012 for the purposes of advancing the *Creating Opportunities Plan*, the SELN Assessment, and several priorities identified by stakeholders at the 2011 Employment First Summit. It will also serve as the plan to address the expectations related to Employment First outlined in the Settlement Agreement. DBHDS consulted with members of the SELN Advisory Group in development of the Plan and it will be updated annually in collaboration with the SELN.

I. Interagency Collaboration

In order to achieve a state wide Employment First Initiative, it is necessary to align policies and procedures between a number of state agencies which play a part in employment for people with disabilities.

Activity 1	**Employment First Leadership Summit (meeting) –Commitment to collaborate on Employment First objectives**
Long Range Goal	Conduct a joint leadership meeting of departments to commit to working towards Employment First
Perceived Barriers/Challenges	Identification of key personnel in leadership who need to attend Coordination of meeting schedules
Short-term Objectives	Leadership staff of key state agencies (e.g., DBHDS, Department of Medical Assistance (DMAS), DRS, Department of Education (DOE), etc.) will be invited to participate in an Employment First Leadership Summit to promote Employment First objectives.
Agencies Involved	DBHDS, DARS, DMAS, DOE
Projected Start Date	October 2012
Projected Completion Date	January 2013
Product/Results	Commitment by agencies to support employment first and be available to change policies and regulations.

Activity 2	**Convene a high level administration leadership body (DBHDS, DARS, DOE, DMAS, Virginia Employment Commission (VEC), Developmental Disabilities Council (DD Council) Virginia Community College System (VCCS) to come to consensus on the definition of integrated employment (Employment First policy) so they can examine their own employment priorities, practices and policies in each agency; clarify policies and share them with one another; and discuss possible ways to remove barriers so that people with I/DD can achieve successful employment outcomes.**
Long Range Goal	Advance the development of a statewide Strategic Plan for Employment First. The strategic plan for Employment First will draw from and support Virginia's commitment to person-centered planning and work to increase available resources from relevant funding sources to support activities vital to creating customized employment opportunities for people with the most significant disabilities
Perceived Barriers/Challenges	Currently no unified policy or standards for employment Lack of coordination between state agencies Lack of established interaction protocols
Short-term Objectives	• Review of the findings and recommendations from existing Virginia studies, analyses and other work that can inform decisions about implementing a coordinated Employment First approach in Virginia. • Review the employment-related policies of all relevant agencies to identify areas of congruence and divergence. Each relevant state agency has developed policies and procedures to increase opportunities for people with the most significant disabilities to seek integrated employment. • Develop a consensus policy statement regarding Employment First to be adopted by all relevant agencies and policy bodies that includes a consensus definition of the concept of Employment First and its underlying foundations. This policy will encompass individual agencies' areas of service focus to support integrated community-based employment for people with the most significant disabilities. Draft policies will be vetted through each partner department's stakeholder groups which include self advocates, advocacy entities and provider organizations.
Agencies Involved	DBHDS, DARS, DOE, DMAS, VEC, DD Council, VCCS
Projected Start Date	Fall 2012
Projected Completion Date	September 2013
Product/Results	A statewide strategic plan to emphasize Employment First. The strategic plan

	defines roles and responsibilities of departments and promotes streamlined coordination of resources to support activities vital to creating opportunities for integrated community-based employment opportunities for people with the most significant disabilities.

Activity 3	**Align licensing, certification, accreditation and other standards to facilitate employment outcomes**
Long Range Goal	Refine current policies and practices regarding community employment in licensure, certification, and accreditation standards. Align DMAS, DARS, and DBHDS policies and regulations to support community employment.
Perceived Barriers/Challenges	Regulations are inconsistently applied across agencies. Regulations inconsistently written across agencies
Short-term Objectives	Identify specific issues -Individual Supported Employment under Waivers will permit billing for same activities as DARS -Individuals can use Medicaid transportation to and from job sites while on the Waivers -Identify timelines for accomplishing needed changes by agency and regulation -Identify operating policies and procedures that can be changed without regulatory amendment and timelines for these changes.
Agencies Involved	DBHDS, DARS, DMAS
Start Date	2011
Projected Completion Date	June 2014
Product/Results	Standardized requirements for providers and staff

II. Training and Technical Assistance

In order move ahead with the Employment First initiative in Virginia it is first necessary to provide clear information on what the Employment First initiative means. There is a great need to educate stakeholders about current trends and recognized best practices in providing integrated community-based employment to people with disabilities. The department intends to increase the Virginia employment community's awareness of the national movement and federal support of integrated community-based employment. Virginia's once nationally prominent role in integrated employment needs to be redeveloped.

Activity 1	**Employment First Statewide Summit (annual)**
Long Range Goal	Develop a shared statewide understanding of the goals of the Employment First Initiative and communicate state goals and priorities with stakeholders

Perceived Barriers/Challenges	The annual Employment First Summits can be provider driven and self advocates need to have an equal voice; Employment First expectations are not disseminated by agency leaders to front line workers; Inconsistent buy-in from all stakeholders in the Employment First philosophy
Short-term Objectives	Organization of annual Employment First Summits
Agencies Involved	DBHDS, DARS, provider associations, Virginia Association of Community Service Boards (VACSB), advocacy groups (SELN Advisory Group)
Projected Start Date	May 2011
Projected Completion Date	October 2011 and annually thereafter
Product/Results	An Employment First Summit is held annually to review the activities of the previous year and plan for the upcoming year, as well as provide technical assistance to stakeholders

Activity 2	**Employment First Regional Summits**
Long Range Goal	Develop a shared statewide understanding of the goals of the Employment First Initiative at the local level, communicate state goals and priorities, and identify local priorities.
Perceived Barriers/Challenges	Each region is unique in its attitudes towards integrated community-based employment due to variations in economic conditions and availability of resources.
Short-term Objectives	Conduct at least 4 regional Employment First Summits across Virginia, ensuring that NOVA, Southwest, Central, and Tidewater areas are covered.
Agencies Involved	DBHDS
Projected Start Date	January 2012
Projected Completion Date	Annually
Product/Results	Information about Employment First Initiatives, including policy, strategies, innovation, education, and training materials, are shared across the state.

Activity 3	**Set up dedicated website for Employment First**
Long Range Goal	Have a dedicated website for stakeholders to access information about Virginia's Employment First initiative. Stakeholders will be able to readily get information on current policies, resources and training material to start implementing Employment First practices; This is where providers could supply information about their services and locations.
Perceived Barriers/Challenges	Financing separate website Lack of web-design expertise at DBHDS

Short-term Objectives	Research other states' Employment First websites to determine what is necessary and customary on a website. Determine if grant or other resources are available to set up the website Develop content requirements for Virginia website Contact and negotiate with web developers Populate site with appropriate information
Agencies Involved	DBHDS, DARS, Virginia Board for People with Disabilities (VBPD)
Projected Start Date	October 2012
Projected Completion Date	September 2013
Product/Results	Virginia will have a user-friendly and informative central location for information about our Employment First Initiative.

Activity 4	**Develop Comprehensive system-wide supported employment practice training plan**
Long Range Goal	Employment staff at all Community Service Boards (CSBs) and Employment service organizations trained in best practice techniques of supported employment
Perceived Barriers/Challenges	Staff time to participate in trainings is limited Financial support for training is minimal
Short-term Objectives	Using the recent development of the Case Manager training curriculum, develop minimum qualifications needed for practitioners Research current training programs available Identify which trainings are best for, or most suited to, sub sets of stakeholders Develop or customize web based training
Agencies Involved	DBHDS,DARS, DOE
Projected Start Date	October 2012
Projected Completion Date	October 2013
Product/Results	A menu of trainings offered for free to employment staff and stakeholders on best practice of supported employment programs.

Activity 5	**Work Incentives & Benefits Counseling Intensive Training for Case Managers and Service Providers**
Long Range Goal	Increased level of knowledge, access to, and use of work incentives
Perceived Barriers/Challenges	Federal funding for the program will end soon Lack of consistent access across the state to information on work incentives Current lack of understanding by most stakeholders with regard to work incentives

Short-term Objectives	Build on the trainings provided through the Medicaid Infrastructure Grant, Financially support the WorkWorld decision making software so it can remain available, free of charge, to Virginians with disabilities seeking employment
Agencies Involved	Social Security Administration(SSA), Virginia Association of Community rehabilitation programs (VA ACCESS), Rehabilitation Research and Training Center at Virginia Commonwealth University (RRTC), DBHDS
Projected Start Date	June 2010
Projected Completion Date	Ongoing
Product/Results	Stakeholders will have a greater understanding of work incentives and therefore, less anxiety about seeking employment

Activity 6	**Provide Trainings on Innovative Employment Models to Direct Support Staff**
Long Range Goal	To have a broad based group of direct support staff knowledgeable in supported employment techniques and practice
Perceived Barriers/Challenges	Perception that Virginia is somehow unique and Employment First will not fit our system Belief that initiating Employment First practices will be too expensive and too staff intensive
Short-term Objectives	Identify cutting edge employment programs and models that can be replicated Partner with training providers to deliver trainings for behavioral health staff Develop grant proposals for financial assistance to fund trainings for ID/DD population
Agencies Involved	DBHDS, RRTC, Association of People Supporting Employment First (APSE)
Projected Start Date	January 2012
Projected Completion Date	September 2013
Product/Results	Each CSB will have staff with knowledge of best practices for providing integrated community-based employment services

Activity 7	**Reach out to families and individuals with disabilities regarding employment first**
Long Range Goal	Families and advocates are informed about Employment First and employment resources and options.
Perceived Barriers/Challenges	Accessibility of resources; parents and self-advocates don't know what questions to ask and whom to ask; mistrust of services system at times
Short-term Objectives	Develop packet of information on quality employment services Present at conferences, self-advocacy meetings, provider meetings Make information available to educators and business leaders Work strategically with self-advocates on advocating for integrated employment

	services Conduct focus groups to identify what questions parents and self-advocates have
Agencies Involved	DBHDS, Partnership for People with Disabilities, Arc of Virginia, Virginia Advocates united leading together (VAULT), National Association for the mentally Ill (NAMI), VBPD
Projected Start Date	April 2011
Projected Completion Date	May 2012—packet completed Outreach will be ongoing
Product/Results	Multiple presentations on employment first to advocacy groups Based on feedback from focus group , develop packet of information on quality employment services to be presented at meetings and put on website

Activity 8	**Strategize on ways to reach out to business communities to educate and increase awareness of employing persons with disabilities**
Long Range Goal	Business leaders are involved as advocates for employment opportunities for people with disabilities
Perceived Barriers/Challenges	Stigma of disability
Short-term Objectives	Collaborate with Secretary of Commerce and Trade Office to develop plan to conduct outreach with business communities Develop membership of different business organizations Increase knowledge and understanding of Employment First in the business community(s). Be active participants in the NGA employment of people with disabilities campaign
Agencies Involved	DBHDS, Virginia Business Leaders Network (VBLN), DARS
Projected Start Date	July 2012
Projected Completion Date	September 2013
Product/Results	Employment community in Virginia will have an understanding of the benefits of employing people with disabilities

III. Services and Service Innovation

Virginia will need to make adjustments in its service delivery system as it continues to transition to a more community-based system. There are currently a number of very good integrated employment programs in Virginia which we need to identify and use as potential models for other areas.

Activity 1	Review and revise Waiver Day Support regulations to increase flexibility and emphasis on employment as the priority focus.
Long Range Goal	Revise Day Support focus and train providers on preparing individuals to work
Perceived Barriers/Challenges	Staffing ratios Reimbursements rates Staff training
Short-term Objectives	As part of Medicaid renewal, implement CMS suggested changes to regulations which increase emphasis of services towards integrated community-based employment Remove/Revise current policies and practices regarding transportation that inhibit or prevent individuals from receiving support with transportation in order to access community employment
Agencies Involved	DBHDS,DMAS
Projected Start Date	2011
Projected Completion Date	Date of DS Waiver/ ID Waiver application renewals (2013/2014)
Product/Results	Waiver regulations will emphasize and support individual placement in integrated employment

Activity 2	Allowable Services standardized to be in line with best practice and DARS employment services
Long Range Goal	All DMAS staff have standardized understanding of allowable services for individual and group supported employment
Perceived Barriers/Challenges	Regulations, individual understanding and application of regulations, varied reimbursement for similar services
Short-term Objectives	Identify similarities and differences in applicable regulations Standardize interpretation of regulations Educate DMAS staff on application of regulations
Agencies Involved	DBHDS, DARS, DMAS
Projected Start Date	September 2012
Projected Completion Date	Waiver renewal date of 2014
Product/Results	Standardized application of regulations for individual and group supported employment which will result in equitable reimbursement for these services

IV. Financing and Contracting Methods

In order to motivate service providers to shift away from congregate employment programs and provide integrated community-based employment as one of their potential service offerings, Virginia needs to remove or minimize barriers in the state's existing rate-setting and/or contracting policies/practices.

Funding and billing practices need to be aimed at creating stronger incentives to provide integrated employment supports.

Activity 1	**Develop braided funding procedures**
Long Range Goal	Virginia vocational rehabilitation and Medicaid funding will be aligned to support integrated employment by incorporating a first dollar down mechanism of braided funding.
Perceived Barriers/Challenges	The state agencies responsible for rate setting and developing policies and procedures for supporting integrated community-based employment are not in line with federal guidance on supporting integrated employment.
Short-term Objectives	Identify ways to allow for developing multiple funding for services Ensure that "double dipping" is not possible
Agencies Involved	DBHDS, DMAS, DARS
Projected Start Date	October 2012
Projected Completion Date	Waiver renewal date of 2014
Product/Results	Billing structure which allows for different funding streams to be involved simultaneously to provide maximum support for individuals in employment services

Activity 2	**Review and modify Waiver Employment rates and non-Waiver employment-related funding**
Long Range Goal	Develop funding policies and rates that support employment as the priority outcome.
Perceived Barriers/Challenges	State funding limitations
Short-term Objectives	Conduct a review of, and make changes to, rates and payment approaches across the state Allow Medicaid funding for individuals' transportation when the job coach is not on site with the individual
Agencies Involved	DBHDS, DMAS
Projected Start Date	2011
Projected Completion Date	Waiver renewal date of 2014
Product/Results	Waiver rate structure in line with CMS guidance which emphasized and incentivized delivery of employment services over other services

Activity 3	**Further Develop Medicaid funding streams for individuals with behavioral health diagnoses**
Long Range Goal	Virginia will have researched additional ways of funding integrated employment

	for individuals with behavioral health diagnoses through Medicaid
Perceived Barriers/Challenges	State funding limitations
Short-term Objectives	Review policies developed in other states regarding funding of employment services for BH. Review CMS guidance about funding and align DMAS regulations
Agencies Involved	DBHDS, DMAS
Projected Start Date	October 2012
Projected Completion Date	July 2014
Product/Results	Potential options for funding employment programs for individuals with behavioral health diagnoses through Medicaid

Activity 4	**Further develop Virginia's Use of Ticket to Work program**
Long Range Goal	All individuals who qualify for the SSA Ticket to Work Program have knowledge about the program which will lead to increased use of this program
Perceived Barriers/Challenges	Lack of understanding how the program works. Lack of information for individuals on how to access this program, both under DBHDS and DARS
Short-term Objectives	Identify regulations and procedures for accessing the program Educate providers and individuals on how to use the program Produce instructional material on the program
Agencies Involved	DBHDS, DMAS, and DARS
Projected Start Date	October 2012
Projected Completion Date	September 2013
Product/Results	Increased understanding of the program which will lead to increased utilization.

V. Performance Measurement

In order to accurately determine the effectiveness of any Employment First initiative Virginia needs to be able to measure service outcome data for individuals with disabilities who are working. In establishing accurate ways to measure outcomes, the state will be able to set goals for overall performance and identify individual high performance areas. A discussion of current baseline data is outlined below. This section of the Strategic Plan sets goals to improve baseline data and establish outcomes targets.

Activity 1	**Establish Accurate Baseline of Employment Data**
Long Range Goal	Existing data on employment services and outcomes is identified and shared across state department partners to describe employment outcomes.
Perceived	Security issues

Barriers/Challenges	
Short-term Objectives	Institute MOA's with VEC and DRS for data sharing Identify existing data elements in each department's data sets Identify gaps and needs
Agencies Involved	DBHDS, DARS, DOE,VEC
Projected Start Date	April 2012
Projected Completion Date	September 2013
Product /Result	Signed MOA with DRS and VEC to collect and share employment data

Activity 2	**Use shared data to determine employment service and outcome information**
Long Range Goal	Have accurate data to measure: Annual baseline information regarding: • The number of individuals who are receiving supported employment; • The length of time people maintain employment in integrated work settings; • Amount of earnings from supported employment; • The number of individuals in pre-vocational services as defined in 12 VAC 30-120-211 ; and • The length of time individuals remain in pre-vocational services.
Perceived Barriers/Challenges	Cross-matching of data based on differing parameters
Short-term Objectives	Obtain data sets to compare Identify data fields necessary for analysis Run data cross referencing individuals
Agencies Involved	DBHDS, DMAS, VEC, DARS
Projected Start Date	March 2012
Projected Completion Date	September 2013
Product/Results	Accurate indicators of answers to questions listed above.

Activity 3	**Development of employment data gathering methodology**
Long Range Goal	To have a data collection system necessary to gather employment data on individuals with disabilities
Perceived Barriers/Challenges	No centralized data collection system over agencies and over disability type Coordination of data collection from multiple types of service providers Coordination with CSB Data Management Committee
Short-term	Research data collection systems which can be integrated into overall data

Objectives	collection system Develop employment data collection items into existing data collection tool Implement data collection through identified system
Agencies Involved	DBHDS
Projected Start Date	January 2012
Projected Completion Date	September 2013
Product/Results	Accurate, reliable data collection tool for employment data so annual baseline information can be established

Activity 4	**Develop 1-3 year employment outcomes targets**
Long Range Goal	Measureable statewide employment outcome goals
Perceived Barriers/Challenges	Data sets across departments do not have matching fields No centralized data collection tool for employment information
Short-term Objectives	Acquire data for analysis Produce data reports with measures identified in Activity 2 above Work with the SELN and SELN Advisory group to evaluate outcomes and establish practical, achievable goals for following year
Agencies Involved	DBHDS
Projected Start Date	October 2012
Projected Completion Date	March 31, 2013 and quarterly thereafter
Product/ Result	Established employment outcome targets that meaningfully increase: • The number of individuals who are receiving supported employment; • The length of time people maintain employment in integrated work settings; • Amount of earnings from supported employment; • The number of individuals in pre-vocational services as defined in 12 VAC 30-120-211 ; and • The length of time individuals remain in pre-vocational services.

Establishing a Baseline, Data Collection and Performance Measurement

Virginia recognizes the important first step of evaluating its integrated day opportunities is to establish a baseline of our current services and capacity. The DOJ Settlement Agreement requires the following annual baseline data be established for individuals receiving services through HCBS waivers:

A. Number of individuals who are receiving supported employment
B. The length of time people maintain employment in integrated work settings
C. The amount of earnings from supported employment

D. The number of individuals in pre-vocational services as defined in 12 VAC 30-120-211
E. The length of time individuals remain in pre-vocational services.

DBHDS will use this data to begin to measure its progress in meeting the elements of its Strategic Plan for Employment First for individuals with ID or DD receiving HCBS Waiver Services. The Plan outlines goals for the next year to address the limitations in current data with other state agencies and to expand data collection to address other population groups and those being supported through other resources such as DARS' programs.

Methodology: In order to get a baseline of the current services being provided under the HCBS Waiver, DBHDS examined the number of individuals who were receiving individual and group supported employment services under the Medicaid ID, Day Support, and DD waiver programs. DBHDS then tried to determine the number of individuals receiving these services that were currently working. DBHDS cross-checked the individuals who were receiving individual supported employment and group supported employment through the waivers against the Virginia Employment Commission's (Virginia's unemployment insurance agency) employment and wage database to determine the length of time they had worked in integrated settings and the quarterly earnings they had from employment.

To determine the number of individuals receiving pre-vocational services through the Medicaid waivers DBHDS reviewed DMAS data for the number of individuals who were receiving pre-vocational services as defined in 12 VAC 30-120-211. In order to measure the length of time the individuals remained in pre-vocational services the number of months from date they started the service until September 2012 were measured. Please note that data on the number of individuals in supported employment includes people in the target population (ID and DD) where as the data on length of time receiving supported employment services only pertains to people with ID, including those in the Day Support waiver. DBHDS currently only collects this type of data for people with Intellectual Disabilities under the waiver system. As part of the DBHDS Strategic Plan, DBHDS will work with other agencies to develop a standardized data collection system across agencies.

A. **Number of individuals receiving supported employment through Medicaid ID, Day Support, and DD Waiver:** There are currently 9027 individuals receiving services through the ID waiver, 280 individuals receiving services through the Day Support Waiver, and 581 individuals receiving services through the DD waiver for FY 2011.

Total Individuals Receiving Supported Employment: 852
Individual supported employment -- 194
Group supported employment -- 658

B. **The length of time people maintain employment in integrated work setting:** The numbers below reflect the number of individuals receiving supported employment *services*, not necessarily whether they are working. DBHDS does not currently have a means of determining what phase of

the supported employment model individuals are involved in, i.e.: job assessment, job development, placement and training, or follow along support. From the information currently collected it cannot be determined if these individuals are actually working or are in one of these other phases. In addition, as noted previously, there is only data available for the ID and Day Support Waiver. The Strategic Plan has a goal of creating a reliable, accurate data gathering system for employment outcome data across waivers and agencies.

SUMMARY OF SUPPORTED EMPLOYMENT(Individual) REPORT	
# of individuals in Supported employment for <= 12 months	60
# of individuals in Supported employment for 13 to 24 months	16
# of individuals in Supported employment for 25 to 36 months	25
# of individuals in Supported employment for 37 to 48 months	12
# of individuals in Supported employment for > 48 months	11
# of individuals with missing information on length of time	70

SUMMARY OF SUPPORTED EMPLOYMENT(Group - Enclave/Work) REPORT	
# of individuals in Supported employment for <= 12 months	124
# of individuals in Supported employment for 13 to 24 months	31
# of individuals in Supported employment for 25 to 36 months	76
# of individuals in Supported employment for 37 to 48 months	62
# of individuals in Supported employment for > 48 months	213
# of individuals with missing information on length of time	152

C. Amount of earnings from supported employment: Using individual service billing data from the Virginia Department of Medical Assistance Services which was filtered by DBHDS data on individuals with ID receiving supported employment services, and cross-referencing this data with employment and wage information from the Virginia Employment Commission, DBHDS obtained the following baseline information regarding earnings for individuals receiving services on the ID, Day Support, and DD waivers.

The average earnings were $1,171.08 per quarter based on Virginia Employment Commission information from June ’11.

D. The number of individuals in pre-vocational services: The number of individuals in pre-vocational services was 866. Data is available for the ID and Day Support Waivers but not the DD Waiver.

E. The length of time individuals remain in pre-vocational services: Data for the ID and Day Support Waiver show the time individuals remain in pre-vocational services. Data is not available for the DD waiver.

SUMMARY OF Pre-Vocational Services REPORT	
# of individuals in Pre-vocational services for <= 12 months	129
# of individuals in Pre-vocational services for 13 to 24 months	60
# of individuals in Pre-vocational services for 25 to 36 months	110
# of individuals in Pre-vocational services for 37 to 48 months	92
# of individuals in Pre-vocational services for > 48 months	275
# of individuals with missing information on length of time	200

Analysis: There are individuals receiving services through the HCBS waivers who are successful in integrated employment situations but there is a great underutilization of integrated employment by such individuals.

The Department for Aging and Rehabilitative Services, the state's vocational rehabilitation agency, has a network of over 70 supported employment providers who provide services to individuals who are currently working in integrated community-based employment. DARS reports in their 2010 -2012 LTESS Statistics that currently about 2790 individuals are receiving long term employment support services. Their average hourly wage is $9.15, and most have maintained their employment for at least 6 months. This capacity is not reflected in the baseline data above. The Strategic Plan developed by DBHDS seeks to build on Virginia's current employment services system and is focused on increasing the utilization of that system by individuals with disabilities and consequently, more data must be collected across these populations to accurately measure progress.

Building on the DBHDS Strategic Plan for Employment First

The data gathering methodology used in this report will be improved over time as Virginia implements this Plan. Currently, there is not an established system that collects data regarding integrated day activities. The data that DBHDS has been able to compile, which is set forth above, is believed to be incomplete and not fully accurate. DBHDS has defined increasing the collection of accurate, reliable service delivery and outcome data as one of the primary activities that it must accomplish as part of its Strategic Plan.

The data required by the Settlement Agreement will be collected from providers on a quarterly basis and provided to the Regional Quality Councils and the Quality Management system. Each quarter's data will be compared with the previous quarter's data to track movement and reviewed by the SELN Advisory Group and the Regional Quality Councils. Regional Quality Councils will review data regarding the extent to which the targets identified through Activity 4 of the Performance Measure section above are met.

Regional Quality Councils will consult with those providers and the SELN Advisory Group regarding the need to take additional measures to further enhance these services. The Regional Quality Councils will annually review the targets and will work with providers and the SELN in determining whether the targets should be adjusted upward.

DBHDS will be working with the SELN Advisory Group and the Regional Quality Councils to improve data collection methodology in accordance with this plan in order to achieve more accurate and complete data. Since the signing of the settlement agreement, DBHDS has worked to compile basic information regarding integrated day activities in the Commonwealth. Baseline information must first be established before targets to increase supported employment can be set. Now that basic information has been complied, DBHDS will work with the SELN Advisory Group and the Regional Quality Councils to establish targets as required in the Settlement Agreement, based on the basic data above and updated data obtained in accordance with this plan, to meaningfully increase integrated day opportunities. DBHDS anticipates completing this work in partnership with these stakeholders by March 31, 2013 and the employment outcome targets will then be used to measure progress during the quarterly updates and annual Strategic Plan development. As improved data collection is implemented, the employment outcome targets will be updated in accordance with the settlement agreement. The Strategic Plan for Employment First will be updated in September of each year.

The DBHDS Strategic Plan for Employment First will be the basis for a Virginia Strategic Plan for Employment First. As the activities identified in the attached Strategic Plan are successfully accomplished it will necessarily follow that the strategic goals will be achieved, including incorporation of the work of other state agencies supporting individuals with disabilities and a common understanding across these agencies of Employment First concepts and practices.

Appendix A
Definitions

- **Supported Employment:** Supported employment means work in settings in which persons without disabilities are typically employed. It includes training in specific skills related to paid employment and the provision of ongoing or intermittent assistance and specialized supervision to enable individuals with disabilities to maintain paid employment. This service is for individuals with developmental disabilities for whom competitive employment at or above the minimum wage is unlikely without on-going supports and who because of their disability need ongoing post-employment support to perform in a work setting Supported employment can be provided in one of two models:

  Individual supported employment is defined as intermittent support, usually provided one-on-one by a job coach to an individual in a supported employment position who, during most of the time on the job site, performs independently.

  Group supported employment is defined as continuous support provided by staff to eight or fewer individuals with disabilities in an enclave, work crew, entrepreneurial model, or bench work model. An entrepreneurial model of supported employment is a small business employing fewer than eight individuals with disabilities and usually involves interactions with the public and with coworkers without disabilities. An example of the bench work model is a small, nonprofit electronics assembly business that employs individuals without disabilities to work alongside eight or fewer individuals with significantly complex needs and provides daily opportunities for community integration. The individual's assessment and Individual Support Plan must clearly reflect the individual's need for skill-building and supports to acquire or maintain paid employment. [Source: Virginia Medicaid Manual]

- **Integrated employment**
  DBHDS, in developing its Employment First Policy, defines Integrated Employment as work providing a minimum or commensurate wage and related benefits in a typical work setting where the employee with a disability has opportunity to interact with non-disabled co-workers, has an opportunity for career advancement, and is preferably engaged full time.

- **Prevocational Services**
  Prevocational services are defined as services aimed at preparing an individual for paid or unpaid employment. The services do not include activities that are specifically job-task oriented but focus on concepts such as accepting supervision, attendance, task completion, problem-solving, and safety. Compensation, if provided, is less that 50% of minimum wage. Prevocational services are provided to individuals who are not expected to join the regular work force without supports or participate in a transitional sheltered workshop program within one year of beginning waiver services (excluding supported employment programs). [Source: Virginia Medicaid Manual]

- **Non- Work Community-based Services**

These services include all services that are located in the community rather than a facility and do not involve paid employment. These activities focus on supporting people with disabilities to access community activities where most people involved do not have disabilities. These activities include general community integration activities such as recreation and leisure, improving psychosocial skills, activities of daily living practiced in the community and volunteer experience. This service category is also referred to as Community Integration or Community Participation Services and includes community volunteer activities and recreational opportunities. [Source: SELN State Strategic Employment Assessment]

Appendix B:
SELN AG STRATEGIC ASSESSMENT

State Employment Leadership Network

State Strategic Employment Assessment

August 2008

Virginia

December 18, 2009

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Introduction

This assessment was developed to assist state intellectual and developmental disabilities (ID/DD) agencies in reviewing state policy, practice and strategy that impact on opportunities for integrated employment. It incorporates elements that research suggests support high rates of participation in integrated employment. For the purposes of this document integrated employment is defined as working for pay in a community-based job where most people do not have disabilities. This may include competitive employment, individual supported employment, self-employment, or group supported employment including enclaves and mobile work crews that meet the definition of competitive employment used in the Rehabilitation Act.

Wherever possible states are encouraged to distinguish between specific employment outcomes in responding to this assessment; please see the Glossary for definitions of different employment and day service outcomes. After the assessment is completed, SELN staff will develop a summary containing recommendations for each state's work plan. States that renew their SELN membership may be asked to update their initial assessment so that recent activity towards improving integrated employment outcomes are reflected and additional objectives or action steps may be added to their work plan.

Assessment Process

The assessment incorporates four major elements:

1. Documentation of the state agency's anticipated **goals and outcomes** related to participation in the State Employment Leadership Network (to be completed by state ID/DD agency).

2. Collection of **documents and other resources** that describe the state's system, mission and strategies for providing employment and day supports (to be completed by state ID/DD agency).

3. Completion of a **qualitative review** of state integrated employment practice and strategy (SELN Project staff).

4. Development of a **longitudinal summary** of state employment participation and funding using data from the Institute for Community Inclusion's (ICI) National Survey of Day and Employment Programs and data from other secondary sources including the Rehabilitation Services Administration, U.S. Census and Social Security Administration (SELN Project staff).

The assessment process consists of: (a) an initial discussion between the member agency and SELN staff, (b) a description of goals and existing state strategy and practice, and (c) a review of documents that describe employment policy and strategy. SELN staff will conduct a site visit to each state to discuss and complete a qualitative summary of state policy and practices using the assessment framework as a guide. A Supplement to the Assessment is also available to gather input from providers and other stakeholders. The Supplement is available in electronic document form, and also as an online survey. The online survey results can be easily collected and shared with the state agency contacts in a report format.

Participating state agency officials are asked to assist SELN staff by defining the goals and outcomes the state intends to achieve through project participation; gathering and reporting information on the state's current statutes, policies and rules regarding the provision of integrated employment services;

and providing a short summary of the current approaches the state used to achieve integrated employment outcomes.

Assessment Framework

The assessment will address the following key elements and questions within ICI's Framework for Employment:

I. Strategic goals and operating policies

II. Leadership

III. Financing and contracting methods

IV. Training and technical assistance

V. Interagency collaboration

VI. Services and service innovations

VII. Employment performance measurement, quality assurance, and program oversight

A Framework for Employment

This table includes a detailed summary of each element, including descriptors and examples of state strategies. The elements come from ICI's Framework for Employment, collected through extensive experience and research conducted within states. The next few pages include each of the seven key elements along with descriptors and examples. This information represents a series of practices demonstrated to be effective at enabling states to develop and sustain high-performing integrated employment systems. Please read through pages 5-12 before completing the actual Assessment. The questions in the Assessment sections (A-C) are designed to capture a snapshot of your state. Rate your level of agreement with each statement, jot notes and gather input from others. You are encouraged to refer to attachments or resource materials whenever possible and applicable.

Strategic Goals and Operating Policies		
Element	**Descriptors**	**Examples of the Strategy**
State mission, goals and operating policies emphasize employment as a preferred outcome.	There is a clear understanding across stakeholders of the philosophical beliefs that support the state's service delivery model. Short and long term policy goals establish clear benchmarks for expanding integrated employment. The state's commitment to furnishing services that enable individuals to obtain employment is emphasized by state policy and regulation. State practices clearly support employment and allow and encourage stakeholders to use innovative methods to meet policy expectations. The state agency allocates resources including staff dedicated to employment and clear accountability at all levels (state, county, regional, area). Local service management units (e.g. county or area boards/agencies) have flexibility to initiate pilot activity or direct	Concrete annual goals address increasing employment outcomes. (FL, CO) State case managers identify employment as the priority outcome/service for all individuals receiving services or entering the system. Employment outcomes have been clearly defined at the state level. Stakeholders have a common understanding and definition of a successful outcome. (OK) A policy that clearly states employment as the preferred outcome for day supports. (WA, OK) ISP process requires the inclusion of employment goals. (CO) Requirement that each individual who is not working complete a situational assessment in a community job site every three years. (TN) Individuals are supported in jobs outside of the hours of 9 to 5.

Strategic Goals and Operating Policies		
Element	**Descriptors**	**Examples of the Strategy**
	resources toward employment innovation and development.	The state does not require a minimum number of hours of support. State level program manager(s) focus on policy, outcomes management and contracting. (OK, WA, CO) Regional/local program staff work with providers and stakeholders around employment. (WA, NH, FL) Family or other community members can provide employment supports. Expansion of self determination and individual budgets with a focus on the achievement of employment in integrated settings.

Leadership		
Element	**Descriptors**	**Examples of the Strategy**
Local and state level administrators are clearly identifiable as "champions" for employment.	Central office has a full or part-time position dedicated to employment. Local regions have dedicated staff persons that focus wholly or in part on employment. A network of dedicated and longstanding stakeholders (within the state system and beyond) continually work towards furthering employment in the state. High-level staff communicate a continuous and consistent employment message on a regular basis across a variety of audiences and formats.	County coordinators that are specifically focused on day/ employment supports have enabled targeted success in furthering employment. (WA) Florida has an individual in each regional office to spearhead the employment initiative. Several states have established working groups focused specifically on employment strategy and policy. PA has point individuals identified in each county and region that connect regularly. MA has developed cross stakeholder Employment Solutions Teams at both the regional and state levels include state agency staff, providers, self advocates and family advocates.

Financing and contract methods		
Element	**Descriptors**	**Examples of the Strategy**
Funding mechanisms and contracts with providers emphasize employment as the preferred outcome.	Providers receive greater financial compensation for community employment compared to other outcomes. Contracts and funding levels provide incentives for integrated employment. Goals and/or benchmarks for achieving integrated employment outcomes are included in provider contracts and operating agreements.	Funding allocations and reimbursement rates emphasize employment as a preferred outcome. (TN, CT, OK, FL) Funding is portable between non-work services and employment. Providers have consequences for not meeting goals to increase employment and are rewarded if they do. The state institutes a moratorium for new funding for sheltered employment. (VT) Financial incentives to increase employment; use of multiple or pooled funding sources; flexible use of Medicaid waiver funding. Alternate models, particularly community based non-work, are not better funded than integrated community employment. Pilot programs for funding are encouraged at the local level, such as outcome-based funding for follow along support in Mecklenberg County, NC.

Training and technical assistance		
Element	**Descriptors**	**Examples of the Strategy**
There is a sustained and significant investment in employment-related training and technical assistance.	Training and technical assistance is available to providers to support organizational change and development. Competency-based training is expected or required for direct support professionals working in employment supports	Employment staff that provide direct supports are required to complete a basic training course in employment support. (ME, TN) Provider level technical assistance is available to support organizational development. (CT, TN, CO) Statewide conferences such as Washington's Ellensburg Conference and other forums showcase innovation and emphasize employment. Training for direct support staff is available at low or no cost. (CT, CO) Support for conversion of sheltered workshops into individualized supported employment opportunities. (VT)

Interagency collaboration		
Element	**Descriptors**	**Examples of the Strategy**
Through interagency agreements and relationships, provider collaboration, and outreach to stakeholders, employment is shared as a common goal.	Cooperative networks exist within the provider community and across state agencies to support employment goals. Specific marketing and outreach efforts are geared at all levels of stakeholders including policymakers, families, providers, state agencies, individuals, and the business community to ensure that there is a unified outreach effort promoting community employment.	Local training councils direct resources for employment TA and training. (NH) ID/DD coordinates funding with VR for job placement. State working groups exist for employment development. (CO, IN, MN) Newsletters, brochures and other agency communication highlight employment. Partnership with agencies including DOL, VR, DOE, and provider associations in providing employment-related training and technical assistance. (PA) Pilot project involving VR counselors co-locating with Community Centered Board staff. (CO)

Services and service innovation		
Element	**Descriptors**	**Examples of the Strategy**
The state ID/DD agency works to create opportunities for providers, individuals, and families to make optimum use of the resources available for employment. This includes the dissemination of information related to creative strategies to support individuals in employment.	The state targets transition-age individuals to move directly into employment opportunities. Comprehensive benefits-planning is available to individuals and their families when choosing employment options.	Targeted funding for employment services for youth and young adults between the ages of 16 and 26 in transition to adult life. (PA) Outreach projects target transition age students and families prior to graduation. (King County Parent Training Initiative) Local innovation drives strategy: King County in Washington developed an innovative government employment initiative that spread to state government and other counties.

Employment performance measurement, quality assurance, and program oversight		
Element	**Descriptors**	**Examples of the Strategy**
Comprehensive data systems that are used as a strategic planning tool to further the state's goals of increasing employment.	The state collects and publishes data on employment outcomes. Information on employment outcomes is collected on a regular basis and shared in summary form with stakeholders. Data are used to inform strategy and contracting.	Core outcome variables including individual earnings, hours of employment, benefits, level of workplace integration, and job satisfaction are assessed on a regular basis. (FL, NH, WA, MA) Provider level employment data are made available to consumers and families. The provision of data to the state is a requirement in provider contracts.

Strategic Assessment

Section A: Anticipated Goals or Outcomes Related to Participation in the State Employment Leadership Network

Please describe the specific outcomes you plan to achieve by participating in the Network.	➢ To move VA forward by increasing the numbers of individuals with DD in Supported Employment under Waiver Services and non Waiver services by a percentage to be determined by advisory board. ➢ To reestablish DBHDS' investment in integrated employment ➢ To collaborate with key state agencies (DRS, DOE, etc) to combine resources and initiatives to improve opportunities for people with DD. ➢ To educate and raise awareness to employment service organizations, providers, individuals and families about the positive outcomes and financial benefits of integrated employment. ➢ To increase training opportunities at low/no cost regarding job coaching, building business relationships, etc.
Identify and describe the strengths of your state's current employment services or network. Include exemplary programs and services, operational practices, funding policies, etc.	➢ Our Waiver funding rates were increased to match DRS's rates in 2008 ➢ There are pockets of excellence throughout the state agencies, private providers, and university affiliated centers that can serve as role models. ➢ Va has an active MIG (FY 2009 $750,000) ➢ Strong lobby groups (VaAccses, Virginia Network of Private Providers, etc) ➢ Some large lucrative Employment Service Organizations ➢ MIG support of WIPA's, Medicaid Works, Medicaid Buy In ➢ Strong commitment by the state DD agency to increase competitive employment opportunities for persons with DD ➢ Recent study by the Va. Joint Legislative Audit and Review Commission on ASD services in Virginia cited the lack of employment opportunities for persons with ASD as a major area of concern
Identify and describe needed improvements in employment services, programs that do not achieve identified goals or outcomes, areas of consumer, provider or staff complaint, vulnerabilities, etc.	➢ Too many people in day habilitation centers (day support) ➢ Need to increase/install incentives for community employment ➢ Need to decrease incentives for day habilitation services (example: DRS granted ARRA monies to 2 large workshops in VA FY 2010) ➢ Despite funding changing for SE through Waiver, the service definitions don't match with DRS and some services billable under DRS are not billable under Waiver (i.e. phone calls, travel time for coaches) ➢ Lack of awareness of expanded SE Waiver ➢ Individuals/families mistaken about loosing benefits or SSI if they work.
List and briefly describe the primary barriers to improving identified employment outcomes. Please be as specific as possible.	➢ Day habilitation units end up paying more than SE rates (day hab rates are units of 1 to 2.99 hours) where as SE rates are 1 hour ➢ Not all day hab. Providers are trained in employment or even prevocation. ➢ "Order of Selection" through DRS hindered individuals from getting services and forced providers to lay off staff (then categories opened up in November 09, so providers are not sure whether to rehire) ➢ DBHDS/ODS absence in involvement in integrated employment for years, Having to re-establish position and reputation.

Identify existing opportunities or resources that can be tapped to facilitate the efforts to improve employment outcomes.	- Medicaid Infrastructure Grant - VCU Research Rehab and Training Center staff support (small or large scale) - VCU/Partnership for People with Disabilities collaboration - Virginia Board for People with Disabilities (VBPD) may have grants and/ or initiatives to partner with - CMS's increase in person centered language and values - VA's individual service plans under Waivers are "person-centered" plans based on Person Centered Thinking - Highlight exemplary programs across state and use as role models (Project SEARCH, others)

Section B: Documents or Other Resources

Please forward copies of all statutes, policies, regulations, procedures and other documents related to the employment of individuals with developmental disabilities, including:

[√- Provided, NA- Not Applicable or Not Available]

I. Strategic goals and operating policies	
✓	1. State ID/DD agency mission and goal statement(s)
N/A	2. Statements of broad policy directions or commitments to achieving identified employment outcomes
✓	3. Specific state policy goals related to the achievement of employment outcomes for individuals with developmental disabilities
✓	4. Operating policies related to the achievement of employment outcomes for individuals with developmental disabilities
✓	5. Regulations pertaining to the provision of employment and other day services
N/A	6. State agency organizational structure with respect to the provision of employment and day supports

II. Leadership	
✓	1. Organizational chart with areas of responsibility or focus
✓ **partial**	2. Recent releases regarding the agency's support of employment activity (newsletters. Annual reports, etc.)
✓	3. Examples of how administrators have communicated the employment message both internally and externally (Bulletins, Proclamations, etc.)

III. Financing and contracting methods	
✓	1. Service definitions of supported employment included in the state's 1915(C) Medicaid waiver programs.
✓	2. Service definitions for day habilitation and other supports furnished under the state's 1915(C) Medicaid waiver programs.
✓	3. Sample provider agency contracts for the provision of employment supports
✓ **partial**	4. Funding and rate structures for employment and other day service supports

IV. Training and technical assistance	
✓	1. Training requirements and/or curricula for state agency personnel involved in employment, including case managers or service coordinators
✓	2. Training requirements and/or curricula for direct support professionals

V. Interagency collaboration	
✓	1. Agreements or Memoranda of Understanding with other state agencies regarding employment services (including vocational rehabilitation, department of education, and workforce development)
✓	2. Other documents which illustrate current working relationships with other entities around areas such as transition planning

VI. Services and service innovation	
✓	1. Benefits planning resources provided to individuals and families
N/A	2. Resources available to transition age students and their families to encourage them to choose employment over other services options
N/A	3. Information disseminated about creative strategies to support individuals in employment

VII. Employment performance measurement, quality assurance, and program oversight	
	1. Quality standards for employment and other day service supports
✓ **see service definitions**	2. Description of quality assessment and monitoring procedures for employment services
✓	3. Data summaries or outcome reports related to employment and other day supports

NOTES:

Section C: Summary of State Practice and Strategy

Please respond to the following questions in preparation for the visit and to make our use of time with you as efficient and productive as possible. The qualitative summary of state strategy and practice will be completed by Network staff through the interviews, meetings and discussions at the on-site visit.

The survey questions are based on elements from ICI's Framework for Employment collected through extensive experience and research conducted within states. The questions represent a series of practices demonstrated to be effective at enabling states to develop and sustain high-performing integrated employment systems. The questions are designed to get a snapshot of your state in each area. Please rate your level of agreement with each statement. You are encouraged to refer to attachments or resource materials whenever possible and applicable.

Please note that for the purposes of this self-assessment the term, "employment" refers to integrated employment for persons with developmental disabilities. See the Glossary for definitions of different types of employment and day services.

1. **Strategic goals and operating policies:**	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Sure
	1	**2**	**3**	**4**	**5**	**6**
a. There is a clear understanding across stakeholders of the philosophical beliefs that support the state's service delivery model.					✓	
b. The state agency has measurable goals with clear benchmarks with respect to achieving integrated employment outcomes.				✓		
c. The state agency has an initiative around expanding employment.		✓				
d. Requirements are placed on service providers for achieving employment outcomes for individuals with disabilities.			✓			
e. Employment is addressed within the individual service planning process.		✓				
f. Employment related staffing patterns at the state, local or regional levels including program development and quality assurance resources are sufficient.					✓	

Question or Element	Response
What are the measurable goals of your system with respect to the achievement of integrated employment outcomes?	- The formal AFP goal - This can be developed through advisory group, esp. once we get accurate employment data
How are system level goals communicated to stakeholders?	- Currently, rather informally. Through various groups like: TACIDD, VaLID, informal meetings via different stakeholder groups (i.e. ASA groups, The Arc, ESO Advisory committees, Parent to Parent groups, conference presentations, etc)
How is integrated employment defined in your state's developmental disabilities system? Include all specific employment models.	- Area to be developed, Employment first policy plus integrated emp definition
How are other service options including sheltered employment and non-work services defined?	
Briefly describe state ID/DD agency initiatives aimed at improving integrated employment outcomes over the past five years.	- Implementation of SIS (indirect impact) - Person Centered Plan (ISP) which is meant to be an "employment first" document/process - Participation in SELN - Becoming an inclusive DD agency rather than ID
What requirements are placed on service providers for achieving employment outcomes for individuals with disabilities?	- See Waiver regs & DRS SE documentation
How is employment addressed for persons receiving support by the state's individual service planning process?	
Outline employment related staffing patterns at the state and local or regional levels including program development and quality assurance resources.	

2. **Leadership:**	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Sure
	1	**2**	**3**	**4**	**5**	**6**
a. Leadership within the state ID/DD agency clearly supports employment as a top priority.		✓				
b. There is a specific staff person identified within the ID/DD state agency who is responsible for the development of employment policy, strategy and training.	✓					
c. There is a core network of stakeholders within the state who are committed to and advocate for employment.		✓				
d. There are specific staff people at the local or regional level who are responsible for managing the development of employment services and supports.			✓			

Question or Element	**Response**
Who are the champions for employment as a primary goal within the state ID/DD agency? What factors have made them successful or unsuccessful?	• Most of the office of DS staff, my office. In process of revitalizing this thinking. Cheri Stierer and Lee Price are key players in pushing the department towards policy and disseminating the word at a systems level. • The ODS had lost employment staff 2 years ago when that staff left for another position. Has been 10 years or so since Employment was an active goal in ODS.
How successful have leaders been in rallying widespread support for employment as a priority? What strategies have been put into place to make this happen?	• Stakeholder and advocate climate is improving with availability of Community Resource manager, (i.e. Emily H) and co-worker, Cindy Gwinn' to visit various state groups, develop repore and educate on SELN /employment role.
What communication and outreach strategies are used?	
Who participates regularly in working groups to discuss employment issues?	

3. **Financing and contracting methods:**	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Sure
	1	**2**	**3**	**4**	**5**	**6**
a. The rate(s) and rate structures in place for individual supported or competitive employment encourage employment over other day service options.			✓			
b. Financial incentives are offered to providers to increase integrated employment outcomes.				✓		
c. Other resources outside of the state ID/DD agency are used to support integrated employment for individuals with developmental disabilities.	✓					

Question or Element	**Response**
What are the rate(s) and rate structures in place for *individual supported or competitive employment*? Provide more than one if necessary.	Rate: *see Waiver Rates document (based on ESO rates)* Billing unit or structure: *Hour* Source(s) of funds: *HCBS 1915(b) or DRS (VR)* *See fee schedule*
What are the rate(s) and rate structures in place for *group supported employment* including enclaves or mobile work crews?	Rate: *same as above* Billing unit or structure: Source(s) of funds:
What are the rate(s) and rate structures in place for *sheltered employment*?	Rate: Billing unit or structure: Source(s) of funds: Sheltered employment can only be billed as Prevocation under waiver, otherwise LTESS might pick up IF available.
What are the rate(s) and rate structures in place for *facility-based non-work services* (day habilitation or day activity services)?	Rate: Billing unit or structure: Source(s) of funds: N/A
What are the rate(s) and rate structures in place for *community-based non-work services* (e.g. community integration services)?	Rate: Billing unit or structure: Source(s) of funds: N/A
What financial incentives are offered to providers to increase integrated employment outcomes	*Ticket to Work….. otherwise nothing*
What resources outside of the state ID/DD agency	Refer to attached documents from DRS, MIG, WIPA, VBPD, VEC, etc.

Question or Element	Response
are used to support integrated employment for individuals with developmental disabilities?	

4. **Training and technical assistance:**	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Sure
	1	**2**	**3**	**4**	**5**	**6**
a. The state ID/DD agency provides or funds sufficient training opportunities for direct support professionals working in employment.					✓	
b. The state ID/DD agency offers technical assistance or consultation resources to provider organizations to assist them in expanding or improving employment outcomes.			✓			
c. State ID/DD agency personnel including case mangers receive training on employment supports and outcomes.				✓		

Question or Element	Response
What training does the state ID/DD agency provide or fund for direct support professionals working in employment?	None known
What technical assistance or consultation resources does the state ID/DD agency offer to provider organizations to assist them in expanding or improving employment outcomes?	
What technical assistance or other resources are offered to provider organizations to help them deal with the challenges associated with organizational change?	
What training do state ID/DD agency personnel receive on employment supports and outcomes?	

5. **Interagency collaboration:**	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Sure
	1	**2**	**3**	**4**	**5**	**6**
a. Informal relationships or collaborations exist among state, regional and provider agencies, and employers to support integrated employment.			✓			
b. Formal interagency agreements or collaborations exist to support integrated employment.			✓			
c. Resources are provided to schools to assist in the development of transition plans from school to work.						✓

Question or Element	Response
Who are the key integrated employment stakeholders in your state?	DRS, DOE (transition), RRTC, VBPD, VaAccses, Office of Comm Integration, etc.
What informal relationships or collaborations exist among state, regional and provider agencies, and employers to support integrated employment?	
What formal interagency agreements or collaborations exist to support integrated employment?	
What resources are provided to schools to assist in the development of transition plans from school to work?	Unknown to this writer. However, DOE is in discussion and partnership with DBHDS to develop such via JLARC>

6. **Services and service innovation:**	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Sure
	1	**2**	**3**	**4**	**5**	**6**
a. The state ID/DD agency supports and encourages innovation in employment services.				✓		
b. The state ID/DD agency disseminates information about creative strategies to support individuals in employment.				✓		

c. Transition-age students and their families are encouraged to choose employment over other services options.					✓	
d. Resources are available to individuals waiting for services and their families to encourage them to choose employment over other service options.					✓	
e. The case management/service coordination process supports employment as a primary goal.					✓	

Question or Element	Response
How does the state ID/DD agency support and encourage innovation in employment services?	
What are some examples of actions the agency took to facilitate innovations?	
How are benefits planning resources provided to individuals and families?	WIPA services, Va One Stop, DRS counselor
What resources are available to transition age students and their families to encourage them to choose employment over other services options?	
What resources are available to individuals waiting for services and their families to encourage them to choose employment over other services options?	

7. **Employment performance measurement, quality assurance, and program oversight:**	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Sure
	1	**2**	**3**	**4**	**5**	**6**
a. The state collects and publishes data on employment outcomes.			✓			
b. Information on employment outcomes is collected on a regular basis and shared in summary form with stakeholders.				✓		
c. Data are used to inform employment strategy and contracting.				✓		

d. Core outcome variables including individual earnings, hours of employment, benefits, level of workplace integration, and job satisfaction are assessed on a regular basis.				✓		
e. Provider level employment data are made available to consumers and families.				✓		
f. Accountability for achieving employment outcomes is managed at multiple levels (state, county/region, or local level).				✓		

Question or Element	Response
What type of employment data are collected on individuals, providers, and services?	This entire section is very much lacking. ODS is developing new data systems to more accurately track Waiver service numbers (i.e. employment and day hap). Also, collaborating with DRS and DOE to integrate data systems and share info.
What key employment-related variables are collected, how are they collected and how often?	
How is employment data used by the state ID/DD agency, county/regional ID/DD agencies and provider agencies? Is it shared with stakeholders?	
How is employment addressed in state quality assurance systems or processes?	
How is accountability for achieving employment outcomes managed at a state, county/region, or local level?	

Glossary

Employment Services and Programs

Integrated Employment includes all *competitive employment, individual supported employment, group supported employment, and self-employment related supports*. Services are provided in a community setting (rather than facility-based) and involve paid employment of the participant.

A. **Individual Employment** includes *individual supported employment* services and *competitive employment* services.

B. **Individual Supported Employment** services are:
   - Ongoing job-related supports are provided to the worker with a disability in order to maintain employment at an integrated job site, and
   - Individuals earn at least minimum wage and are an employee of the community business.

C. **Competitive Employment** services are:
   - Time-limited job-related supports or job placement services provided to the worker with a disability in order to obtain employment.
   - Individuals earn at least minimum wage and is an employee of the community business. This includes transitional employment.

D. **Group Supported Employment** services are groups of employees who have disabilities who work together on a job site or employees who typically move to multiple work sites receiving continual support. This service includes *enclaves* and *mobile work crews*.

   - **Enclaves** are:
     - Groups of up to 8 employees who have disabilities working together in a site where most people do not have disabilities.

   - **Mobile Work Crews** are:
     - Groups of employees with disabilities who typically move to different work sites where most people do not have disabilities.

- **Self-Employment Services** include self-employment, home-based employment, and small business ownership that is controlled/owned by the individual. This category does not include a business that is owned by an organization or provider.

Facility-Based Work includes all employment services which occur in a segregated setting (rather than community-based) and where the majority employees have disability.

- These activities occur in settings where continuous job-related supports and supervision are provided to all workers with disabilities.
- This service category is also referred to as Sheltered Workshops, Work Activity, or Extended Employment programs.
- This category also includes Work Center Based Employment such as affirmative industries, NISH, NIB, and other federal and state set-asides that do not meet the definition of group supported employment.

Non-Work Services and Programs

A. **Individual Community-Based Non-Work** includes all services that are located in the community (rather than facility-based) and do not involve paid employment of the participant.
   - These activities focus on supporting people with disabilities to access community activities where most people do not have disabilities.
   - Includes general community activities, volunteer experiences, recreation and leisure, improving psychosocial skills, or activities of daily living.
   - This service category is also referred to as Community Integration or Community Participation Services.

B. **Facility-Based Non-Work** includes all services that are located in a segregated setting (rather than community-based) and do not involve paid employment of the participant.
   - These activities include but are not limited to: psycho/social skills, activities of daily living, recreation, and/or professional therapies (e.g., O.T., P.T., S.T.).
   - Continuous supports and supervision are provided to all participants with disabilities.
   - Includes Day Activity, Day Habilitation, and Medical Day Care programs.

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For More Information:

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Appendix C:
DBHDS Creating Opportunities Plan

CREATING OPPORTUNITIES

a plan for advancing community-focused services in Virginia

Creating Opportunities

A Plan for Advancing Community-Focused Services in Virginia

IMPLEMENTATION PLAN

Identifying the priorities and actions needed

July 25, 2011

DBHDS

Virginia Department of Behavioral Health and Developmental Services

COMMONWEALTH of VIRGINIA

JAMES W. STEWART, III
COMMISSIONER

DEPARTMENT OF
BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES
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TO: Interested Parties
FROM: James W. Stewart, III, Commissioner
DATE: July 25, 2011
RE: *Creating Opportunities: A Plan for Advancing Community-Focused Services in Virginia* Implementation Plan

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I am pleased to share with you the attached Implementation Plan for strategic initiatives included in the Department of Behavioral Health and Developmental Services' (DBHDS) *Creating Opportunities: A Plan for Advancing Community-Focused Services in Virginia.* This report identifies the priorities and actions needed to successfully advance initiatives that will enable DBHDS to 1) build on and continue progress in advancing the DBHDS vision, 2) support the Governor's expressed intentions to achieve a Commonwealth of Opportunity for all Virginians, and 3) promote services system efficiencies in a manner that is effective and responsive to the needs of individuals receiving services and their families.

In spring 2010, planning teams were appointed to assist DBHDS in identifying strategic initiatives for the Commonwealth's behavioral health and developmental services system. Twelve initiatives were selected that focus on the following areas:

- Behavioral Health Emergency Response Services
- Peer Services and Supports
- Substance Abuse Treatment Services
- Effectiveness/Efficiency of State Hospital Services
- Child and Adolescent Mental Health Services
- Developmental Services and Supports Community Capacity
- Autism Spectrum Disorders/ Developmental Disabilities
- Housing
- Employment
- Case Management
- DBHDS Electronic Health Record (EHR) and Health Information Exchange (HIE)
- Sexually Violent Predator (SVP) Service Capacity

Implementation teams were formed to help develop achievable and impactful objectives and priority actions needed to accomplish the initiatives. Over 200 individuals have been involved in this effort including representatives from DBHDS central office, state hospitals and training centers, community services boards, private providers, consumers, various departments of state government and other stakeholders. Reports with background and recommendations are being completed for several of the strategic initiatives. If not already online, reports will soon be available at www.dbhds.virginia.gov/CreatingOpportunities.htm. DBHDS will use existing resources for many of the needed actions, while recommendations that call for expansion of targeted services will require additional resources.

I am grateful to the many individuals who lent their time and talents to this important work. Thanks to their efforts, the outcomes achieved by implementation of *Creating Opportunities* will lead to a more effective and efficient system of services and supports that provides the greatest opportunity for those with mental illness, substance-use disorders, or developmental disabilities and their families across the Commonwealth.

DBHDS
Virginia Department of Behavioral Health and Developmental Services

Creating Opportunities: A Plan for Advancing Community-Focused Services in Virginia

Creating Opportunities Implementation Plan

Identifying the priorities and actions needed

In early 2010, DBHDS began work on "**CREATING OPPORTUNITIES**," a strategic plan with the goal of improving services and supports for Virginians with mental illness, substance-use disorders and developmental disabilities. Work groups, including representatives from the DBHDS central office, state hospitals and training centers, community services boards, private providers, consumers and other stakeholders, identified achievable and objectives, along with priorities and resources needed to accomplish those objectives in the following areas:

- *Behavioral Health Emergency Response Services*
- *Peer Services and Supports*
- *Substance Abuse Treatment Services*
- *Effectiveness and Efficiency of State Hospital Services*
- *Child and Adolescent Mental Health Services Plan*
- *Developmental Services and Supports Community Capacity*
- *Autism Spectrum Disorders/ Developmental Disabilities*
- *Housing*
- *Employment*
- *Case Management*
- *DBHDS Electronic Health Record (EHR) and Health Information Exchange (HIE)*
- *Sexually Violent Predator (SVP) Service Capacity*

Strengthen the responsiveness of **BEHAVIORAL HEALTH EMERGENCY RESPONSE SERVICES** and maximize the consistency, availability, and accessibility of services for individuals in crisis

The Need

Even with recent initiatives to establish crisis stabilization services, many Virginians do not have access to a basic array of emergency and crisis response services. As a result, high numbers of individuals with behavioral health disorders continue to be involuntarily hospitalized and incarcerated, the most restrictive and costly options available. This could be reduced by increasing access to emergency and crisis response and diversion services, implementing recovery-oriented crisis response practices, and managing intensive services more consistently.

Objectives

- Enhance statewide emergency response and crisis prevention and diversion services capacity.
- Increase the quantity and quality of peer support in the crisis continuum.
- Enhance the Commonwealth's capacity to safely and effectively intervene to prevent or reduce the involvement of individuals with mental health and substance use disorders in the criminal justice system.

Priorities

1. Expand statewide capacity and fill identified gaps in emergency and crisis response services and expand services that prevent or reduce the need for crisis response services. Based on a statewide assessment, additional resources are needed to expand Crisis Intervention Teams (CIT) and PACT programs, establish police reception and drop off centers and emergency critical time intervention services, and increase purchase of local inpatient psychiatric services.
2. Train services providers on recovery-based emergency and crisis response best practices to increase peer support workers employed in emergency response services and use of psychiatric advance directives and wellness recovery plans.
3. Expand the Cross-System Mapping process to more communities to enable community behavioral health and public safety systems to better understand the consumer's experience, identify service gaps, explore opportunities for diversion or system improvement, and develop local action plans.

4. Participate as an active partner in interagency suicide prevention initiatives.
5. Participate in a Joint NAMI-Virginia CIT Coalition conference to be held in September 2011.

Report

A report detailing the work of the emergency response services implementation team will be found on the DBHDS website in the near future at www.dbhds.virginia.gov/CreatingOpportunities.htm.

Increase PEER SERVICES AND SUPPORTS by expanding peer support specialists in direct service roles and recovery support services

The Need

Peer support and recovery support are enormously helpful for many individuals with mental health, substance use, or co-occurring disorders. However, only 32% of CSBs reported access to peers for persons in crisis. Also, Virginia's DBHDS does not have an office, section, or division for "consumer affairs" that can provide leadership for peer and recovery services as is available in many other states.

Objectives

- Establish an Office of Peer Services and Recovery Supports in the Department's central office.
- Increase the quantity and quality of peer support providers.

Priorities

1. Establish a DBHDS Office of Peer Services and Recovery Supports to promote collaboration and information exchange with the peer community, CSBs, and state facilities and support peer services and recovery supports development across Virginia.
2. Work with DMAS to expand peer support services by changing the state Medicaid plan to add peer support as a distinct service. Providers of this new peer support service would need to demonstrate that they meet competency requirements through a state certification program for peer support specialists.

Increase the statewide availability of SUBSTANCE ABUSE TREATMENT SERVICES

The Need

Untreated substance-use disorders cost the Commonwealth millions of dollars in cost-shifting to the criminal justice system, the health care system, and lost productivity, not to mention the human suffering and effects on family and friends.

Objective

- Enhance access to a consistent array of substance abuse services across Virginia.

Priorities

1. Expand statewide capacity and fill identified gaps in the substance abuse services. Based on a statewide assessment, additional investment of resources is needed in medication assisted treatment, detoxification services, uniform screening and assessment for substance abuse, intensive outpatient services, substance abuse case management, community diversion services for young non-violent offenders, peer support services, DRS employment counselors, intensive coordinated care for pregnant and post-partum women who are using drugs, supportive living capability, and residential services for pregnant women and women with children in Southwest Virginia.
2. Implement a substance abuse services workforce development initiative. Additional resources are needed for this initiative.

Enhance the EFFECTIVENESS AND EFFICIENCY OF STATE HOSPITAL SERVICES

The Need

There are considerable differences in hospital staffing patterns, facility organizational structures, staff allocations, services, populations, policies, procedures, and practices that may limit state hospitals from operating as efficiently and effectively as possible. In addition, there is significant pressure on hospital civil beds for services that can be provided safely and effectively in the community. For example, over 38% of state hospital beds are currently devoted to treating forensic patients and Virginia has more state psychiatric beds (representing 30% of total bed capacity) for elderly persons than all but four other states.

Objectives

- Improve state hospital service delivery and standardize hospital procedures, as appropriate.
- Safely reduce or divert forensic admissions from state hospitals and increase conditional releases and discharges to the community.
- Define the future roles, core functions, and future demand for services provided by state hospitals.

Priorities

1. Implement a new state facility quality review process with annual consultative audits by peer facilities and central office staff.
2. Expand outpatient restoration services and enhance outpatient forensic evaluations to decrease forensic pressures on state hospital admissions and return individuals to the community safely and quickly. An additional investment of resources is needed to accomplish this expansion.
3. Expand Discharge Assistance Project (DAP) resources to facilitate discharge of additional long-stay state hospital patients.
4. Improve hospital forensic procedures and management of forensic patients.
5. Continue to develop community-based forensic capability through community forensic training and recommended forensic evaluation oversight statutory changes.
6. Study the future roles of state facilities as services system transformation further increases community capacity, particularly services alternative for forensic and older adult populations.

Develop a CHILD AND ADOLESCENT MENTAL HEALTH SERVICES PLAN to enhance access to the full comprehensive array of child and adolescent behavioral health services as the goal and standard in every community

The Need

Virginia's behavioral health services for children faces multiple challenges including an incomplete, inconsistent array of services, inadequate early intervention services, a need for workforce development and inadequate oversight and quality assurance. As a first step, the General Assembly directed DBHDS to develop and submit a plan to "identify concrete steps to provide children's mental health services, both inpatient and community-based, as close to children's homes as possible" for consideration during its 2012 session.

Objective

- Increase the statewide availability of a consistent basic array of child and adolescent mental health services.

Priorities

1. Establish a Comprehensive Service Array as a guide for children's behavioral health service development.

2. Expand the following child and adolescent behavioral health services statewide to fill identified gaps in base services. Based on a statewide assessment, this would include regional crisis stabilization units for children and mobile child crisis response units, psychiatric services and case management. Additional resources are needed for this initiative.
3. Continue the current role of the Commonwealth Center for Children and Adolescents for the foreseeable future.
4. Implement a children's behavioral health workforce initiative. Additional resources are needed for this initiative.
5. Improve DBHDS quality management and quality assurance and oversight capacity for child and adolescent behavioral health services. Additional resources are needed for this initiative.

Report

The interim DBHDS plan for children and adolescent mental health services was submitted to the General Assembly on October 1, 2010 and the final plan is due November 1, 2011. The interim report can be found at www.dbhds.virginia.gov/documents/CFS/cfs-Community-Based-BH-Plan.pdf.

Build DEVELOPMENTAL SERVICES AND SUPPORTS COMMUNITY CAPACITY that will enable individuals who need such services and supports, including those with multiple disabilities, to live a life fully integrated in the community

The Need

Virginia has a waiting list of over 5,000-persons for the ID and the Families with Developmental Disabilities Supports (IFDDS) waivers. The Department of Justice's (DOJ) report on the Central Virginia Training Center says that Virginia needs to ensure that community services are available as alternatives to institutional placements and that greater service capacity is available for those living in the community.

Objective

- Transform to a community-based system of developmental services and supports.

Priorities

1. Participate under the direction of HHR in negotiations of the settlement agreement with the DOJ. Additional resources are needed for this initiative.
2. Implement the initial DD crisis response programs for which $5 million has been appropriated.
3. Collaborate with DMAS in expanding waiver capacity, modifying existing or creating new waivers, and addressing waiver rate structures. Additional resources are needed for this initiative.
4. Develop implementation strategies for the $30 million appropriated to the DBHDS Trust Fund to address DOJ findings based on agreed upon plans.
5. Improve DBHDS quality assurance and oversight capacity to identify deficiencies, allow electronic client-level tracking of incidents and systemic analyses of trends and patterns, and follow-up to assure corrective action plans are implemented. Additional resources are needed for this initiative.

Incorporate services and supports for individuals with AUTISM SPECTRUM DISORDERS (ASD) OR DEVELOPMENTAL DISABILITIES (DD) in Virginia's developmental services delivery system

The Need

There is currently little to no coordination and funding of ASD and DD services in Virginia. As a first step, the recently completed *"Assessment of Services for Virginians with Autism Spectrum Disorders"* provides a detailed action plan to provide improved ASD and DD services.

Objectives

- Define and coordinate developmental services system responsibilities for ASD and DD supports and services.
- Enhance statewide ASD and DD services and supports capacity.

Priorities

1. Collaborate with DMAS to expand waiver capacity, modify existing or create new waivers, and address waiver rate structures. Additional resources are needed for this initiative.
2. Develop memoranda of agreement for DD/ASD service coordination with DBHDS and the Departments of Education, Rehabilitative Services, Health, Social Services, and Criminal Justice Services.

Address the HOUSING needs for individuals with mental health and substance use disorders and those with developmental disabilities

The Need

Safe, decent, and affordable housing is essential to recovery, and housing stability is correlated to lower rates of incarceration and costly hospital utilization. Generally, individuals should not spend more than 30% of their income on housing. Monthly Supplemental Security Income (SSI) payments are $674 in Virginia while the average fair market rent for a one-bedroom unit is $887. Auxiliary grants subsidize housing for individuals receiving SSI, but are limited to assisted living facilities and adult foster care homes and cannot be used for other housing arrangements. Medicaid does not pay for housing, only services.

Objective

- Expand housing and supports options for individuals with mental health or substance use disorders or developmental disabilities.

Priorities

1. Continue to participate in cross-secretarial and interagency activities to leverage housing resources and create affordable housing options for individuals receiving behavioral health and developmental services, including:
   a) Governor's Housing Initiative recommendations to create a range of housing opportunities.
   b) Governor's Homeless Outcomes Workgroup activities to increase access to substance abuse and mental health treatment, peer recovery programs, and Housing First Projects.
   c) Housing Study (2009) recommendations to establish interagency "person-centered" community-based housing options for individuals with developmental disabilities.
2. Provide training and consultation to services providers to increase affordable housing and appropriate supports by leveraging housing resources and implementing supportive housing models.
3. Explore options to "decouple" developmental services and supports provision and housing.
4. Work with DMAS to assess the potential benefits of expanding Virginia's CMS Money Follows the Person (MFP) program to individuals transitioning from state hospitals.
5. Include housing stability of individuals receiving CSB behavioral health or developmental services as a Performance Contract goal and responsibility and track outcomes on a regular basis.

Create **EMPLOYMENT** opportunities for individuals with mental health or substance use disorders and those with developmental disabilities

The Need

People who are employed contribute to the economy and improve their sense of self worth. Certain interventions are proven to help adults with serious mental illness (SMI) transition from income subsidies to successful competitive employment. Today, CSBs report full or part-time employment rates for service recipients of only 14% among adults with SMI, 32% among adults with substance use disorder, and 16% among adult developmental disabilities.

Objectives

- Establish and implement "Employment First" as the policy of the Commonwealth.
- Expand employment opportunities for individuals with mental health or substance use disorders or developmental disabilities.

Priorities

1. Work with public and private services providers and employers to implement an "Employment First" policy that emphasizes integrated and supported employment. Implementation will include an "Employment First" leadership summit, a statewide awareness and education campaign, and regional trainings.
2. Provide training and consultation to services providers on implementing innovative supportive employment models and establishing integrated supported employment teams that include CSBs, DRS, and ESOs.
3. Work with DMAS to identify ways to incentivize integrated employment in the ID and IFDDS waivers.
4. Work with DMAS to incorporate supported employment evidence-based practice models in Medicaid Day Support, Mental Health Support Services and Psychosocial Rehabilitation regulations.
5. Include employment of individuals receiving CSB behavioral health or developmental services as a performance contract goal and responsibility and track employment status on a regular basis.

Strengthen the capability of the **CASE MANAGEMENT** system to support individuals receiving behavioral health or developmental services

The Need

Case management (service coordination and intensive case management) aids with the navigation and best usage of the publicly-funded system of services by helping individuals connect with appropriate services and receive day-to-day support to ensure stable community living. In Virginia, there is no standard training and no system for assuring that case managers have the knowledge and skills needed to be effective. As a result, the level and quality of such services varies widely from community to community.

Objectives

- Enhance the core competencies of individuals who provide case management services.
- Promote consistency in the practice of case management across the Commonwealth.

Priorities

1. Adopt basic and disability-specific case management curricula based on case management core competencies and develop new case management training modules.
2. Establish a state certification program for case managers to demonstrate that they meet competency and training requirements. Additional resources are needed for this initiative.

Report

A report detailing the work of the case management implementation team can be found on the DBHDS website at www.dbhds.virginia.gov/CreatingOpportunities/CMReport.pdf.

Complete the phased implementation of a DBHDS ELECTRONIC HEALTH RECORD (EHR) AND HEALTH INFORMATION EXCHANGE (HIE) across the state facility system

The Need

The 2009 *American Recovery and Reinvestment Act* requires health providers to implement an EHR system of the clinical treatment/medical records module, including ancillary services, by 2014 to continue to bill Medicaid and Medicare. In the implementation of an EHR, health information exchange considerations must be addressed to enable the exchange of information and data among facilities, and eventually with CSBs through Commonwealth Gateway.

Objective

- Successfully implement an EHR clinical treatment/medical records module in each state facility.

Priorities

1. Complete a state facility clinical workflow analysis to determine EHR requirements.
2. Prepare and issue a Request for Proposal, select a vendor, and negotiate and award contract for a clinical treatment/medical records EHR. Additional resources are needed for this initiative.
3. Work with the selected vendor to implement the clinical treatment/medical records EHR across the state facilities.

Address SEXUALLY VIOLENT PREDATOR (SVP) SERVICE CAPACITY in order to appropriately access and safely operate the Virginia Center for Behavioral Rehabilitation (VCBR) and provide SVP rehabilitation and treatment services

The Need

Because Virginia Code changes in 2006 increased the number of predicate crimes from 4 to 28 and changed the screening tool, the VCBR census is projected to grow from 356 in FY 2012 to 738 in FY 2017. VCBR will exceed its 300-bed capacity in late summer of 2011. The General Assembly directed DBHDS to double-bunk up to150 residents and directed JLARC to study and report on the full SVP process by November 30, 2011. Changes are needed to solve the overcrowding problem, including reducing the number and types of admissions and safely placing eligible individuals on conditional release.

Objectives

- Meet the needs for additional bed and treatment space at VCBR.
- Increase use of conditional release for eligible individuals.

Priorities

1. Reconfigure treatment, medical, education, food services, and security to serve up to 150 additional residents.
2. Support VCBR in facilitating safe and appropriate conditional release of eligible residents.
3. Establish an internal screening process for double bunking residents to ensure program and clinical integrity and maximize facility safety.

Appendix D:
Employment First Elements
Settlement Agreement between Virginia and the US Department of Justice

The *Integrated Day Activities and Supported Employment* section of the settlement agreement states:

7. Integrated Day Activities and Supported Employment

a. To the greatest extent practicable, the Commonwealth shall provide individuals in the target population receiving services under this Agreement with integrated day opportunities, including supported employment.

b. 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.

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. The Commonwealth shall have at least one employment service coordinator to monitor implementation of Employment First practices for individuals in the target population.

i. 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. The plan will be under the direct supervision of a dedicated employment service coordinator for the Commonwealth and shall:

A. Provide regional training on the Employment First policy and strategies throughout the Commonwealth; and

B. Establish, for individuals receiving services through the HCBS waivers:

1. 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.

2. 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.

c. Regional Quality Councils, described in Section V.D.5 below, shall review data regarding the extent to which the targets identified in Section III.C.7.b.i.B.2 above 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.

d. The Regional Quality Councils shall annually review the targets set pursuant to Section III.C.7.b.i.B.2 above and shall work with providers and the SELN in determining whether the targets should be adjusted upward.

Appendix C:

Workgroups and Activities

Workgroups Related to DOJ Settlement Agreement – October 18, 2012

Workgroup	Description	DOJ Implementation Task	Timeline	Status—Oct 18 2012
Provider ID/DD Measures	Workgroup to recommend measures to be collected from community providers, methods for data collection, and timeline for implementation.	Within 12 months, Commonwealth shall develop measures that CSBs and other community providers are required to report on a regular basis (from D.3. domains)	January 2012 – June 2013	Workgroup met twice and then was terminated. The goals of this group are now being addressed through case management workgroup/DMC collaboration and through QI Data Analysis Project
Regional Community Support Centers	Workgroup will examine the current need for specialized medical and dental services and what the community and training centers currently provide. It will recommend a plan to the Commissioner to transition training center operated RCSCs to community-based RCSCs and ensure they will meet future and current needs.	N/A	May 2013 - ongoing	DBHDS will hire a RCSC Coordinator to begin this work in Spring 2013. The RCSC Coordinator will form a project team with stakeholders to begin addressing concerns and develop plans.
Case Management	Workgroup will have two functions, and may have to break out into sub-groups to accomplish its goals. First, it will develop guidelines/definitions for implementation of the new visit standards in the agreement. Second, it will tackle the hows, whens, and whys of collecting the case management data required by the settlement agreement.	Within 12 months, visits by case manager every 30 days, if individual meets certain criteria. Within 12 months, establish mechanism to collect reliable data on frequency, type of CM contacts. Within 24 months, establish mechanism to collect key indicators from CM contacts.	April 2012 –August 2013	Workgroup concluded. Workgroup met June –August 2012; assisted in drafting guidelines for enhanced CM visits. Guidelines published for comment Sept 2012. Final guidelines due Nov 2012. Small sub-group is addressing data questions in collaboration with DMC representatives. CCS3 Extract will be amended to include ID CM data. Separately working with DMAS to determine how to collect DD CM data using similar elements.

Provider Training	Workgroup will make recommendations to DBHDS on the type of training and curriculum that should be offered to providers. Members will examine the training curricula currently available (through our training centers) and the training we already offer in the community and recommend methods to provider this training to providers (at the lowest cost possible to the Commonwealth and providers).	Commonwealth shall have a statewide core competency based training curriculum for all staff providing services under Agreement.	April 2012 – March 2013	Workgroup on hold. Workgroup met April –July 2012 to lay out areas where core curriculum should be considered and developed recommended curriculum. It also discussed vehicles for delivery of training. Workgroup will resume spring/summer 2013.
Individual and Family Supports Program	Workgroup will make recommendations to DBHDS regarding the regulations to establish this program and provide guidance on the elements of implementation.	Virginia will establish an Individual and Family Supports program beginning in FY13	April 2012 – February 2013	Workgroup continues to provide guidance in development of the program. Assisted in development of draft regulations, draft application, and is now working with DBHDS to develop an outreach plan, among other efforts.
Case Management Training	Workgroup formed in 2011 to develop curriculum modules for CM core-competency training.	Virginia will develop a core competency-based training curriculum for CM by March 6, 2013.	2011 - ongoing	Workgroup continues to meet. Modules have been issued and training has occurred for ID and DD CMers. New module on accountability under development.
NEW GROUPS*				
Independent Housing Options	Workgroup will make recommendations regarding how to improve access to independent housing options and distribution one-time $800,000 rental assistance fund.	Within one year of the Agreement, Virginia will develop a plan with recommendations to provide access to integrated settings and begin to disperse from $800,000 fund.	June 2012 - ongoing	Workgroup of DBHDS, DMAS, VBPD, and housing agency representatives, along with external groups, is meeting to develop recommendations, gather baseline data, and draft plan.

*Workgroups added since the last workgroup update in April 2012

Appendix D:
DBHDS Settlement Agreement Stakeholder Group

Category	Appointee Name	Designee
HOST AGENCY		
DBHDS	Mr. James W. Stewart, III, Commissioner	
DBHDS	Dr. Olivia J. Garland, Ph.D., Deputy Commissioner	
DBHDS	Ms. Heidi R. Dix, Assistant Commissioner, Developmental Services	
OTHER STATE AGENCIES		
DMAS	Ms. Cheryl J. Roberts, Deputy Director for Programs	
DARS and CIAC	Ms. Catherine Harrison, Director, CIAC	
OSHHR	Ms. Kristin Burhop, Trust Fund Coordinator	
SERVICE RECIPIENTS		
Parent/Family of Individual	Ms. Betty Thompson	
Parent/Family of Individual	Ms. Vicki Beatty	
Parent/Family of Individual	Ms. Cathleen S. Lowery	
Parent/Family of Individual	Ms. Pat Bennett	
PROVIDERS/ASSOCIATIONS		
VNPP	Ms. Ann Bevan, President	Ms. Jennifer Fidura
VACIL	Ms. Karen Michalski-Karney, Chair	
vaACCSES	Mr. Dave Wilber, President	
VACSB	Ms. Karen Grizzard, Chair	
CSB ID Director	Ms. Michelle Johnson, Henrico CSB	
CSB Executive Director	Ms. Lisa Moore, Mt. Rogers CSB	
DD Case Management	Ms. Josie Williams, Commonwealth Catholic Charities	
CSB Case Manager	Ms. Jennifer Acors, Rappahannock Area CSB	
Non-Congregate Setting Provider	Mr. Peter Leddy, President	Ms. Lynne Seagle
ADVOCACY/OTHER		
The Arc of Virginia	Mr. Glenn Slack, President	Ms. Jamie Liban
Autism Org: Autism Society of Central Va.	Ms. Sandi Wiley, President	Ms. Bradford Hulcher
State Human Rights Committee	Mr. Donald H. Lyons, Chair, SHRC	
VBPD	Mr. John Kelly, Chair	Ms. Heidi Lawyer
Peer Advocate DD	Ms. Marisa Loais, Member, The Arc of Northern Virginia	
Peer Advocate ID	Ms. Katherine Olson, Voices of VA	